

August 2, 2021

RE: States and Jurisdiction

For all who desire freedom and liberty, I have composed the following;

The “state” in the Constitution is not the lawfully created state created by the people of the state as only people and populations can erect a lawful state.

The “several States” in the constitution are those erected on the annexed lands which became federal lands for “defence” purposes, and the “particular States” are the states that gave the land, allowing for the annexation of the lands and those states are in a “confederacy” under the Articles of Confederation. The idea that a federal state, a state within a state makes more sense once properly applied, this is not a “perception” on my part this is an actual understanding of the original intention of the Organic Laws of America. The “several States” CANNOT become “independent states” “Independent states are sovereign states” therefore those states on the annexed lands, or that is the federal lands are the “dependent states” created by the federal government and have no sovereignty and are for “defence” purposes and are called “several States,” being without sovereignty they CANNOT enter into agreements, they cannot erect themselves into independent states, they cannot individually tax, create alliances with foreign nations, erect a state within it, cannot leave the union (become an independent state), cannot join any league/confederacy. The constitution did NOT make the states that created it, dependent states under the authority of the Constitution, it simply allowed for the creation of dependent states within the independent states. The independent states are “The United States of America” and the dependent states are “the United States.” The President, Congress and “supreme Court” are confined within the jurisdiction of “the United States.” The Articles of Confederation were never repealed, there is NO repealing clause for it, the Constitution is simply, a statute for running the dependent states. Therefore, the federal government and all of its instrumentalities are and have been acting outside of their jurisdictions, without proper authority, in fraud, illegally, unlawfully, outside of the constitution, etc. There has been an effort to alter the perception of the American people I believe beginning with the Lincoln Administration when they used the military to take over the lawful state confederacies and make them into legal states. All monies, properties, etc. should be restored, as that is the right thing to do.

See Attachments as Evidence:

ARTICLES OF CONFEDERATION—1777¹

To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting

Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventyseven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia in the Words following, viz.

“Articles of Confederation and perpetual Union between the States of Newhampshire

ARTICLE I. The stile of this confederacy shall be “The United States of America.”

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, now

CONSTITUTION OF THE UNITED STATES OF AMERICA—1787¹

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE. I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

¹This text of the Constitution follows the engrossed copy signed by Gen. Washington and the deputies from 12 States. The small superior figures preceding the paragraphs designate clauses, and were not in the original and have no reference to footnotes.

In May 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legisla-

SECTION. 2. ¹The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

²No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

³Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.² The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the

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JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES

REPORT OF THE
INTERDEPARTMENTAL COMMITTEE
FOR THE STUDY OF
JURISDICTION OVER FEDERAL AREAS
WITHIN THE STATES

PART I

The Facts and Committee Recommendations

Submitted to the Attorney General and transmitted to the President

April 1956

JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES

REPORT OF THE
U.S. INTERDEPARTMENTAL COMMITTEE
FOR THE STUDY OF
JURISDICTION OVER FEDERAL AREAS
WITHIN THE STATES.

PART II

A Text of the Law of Legislative Jurisdiction

Submitted to the Attorney General and transmitted to the President

June 1957

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we have ever had, may become the law of the land.

Mr. COWAN. Mr. President, I do not rise for the purpose of discussing the relative merits of the several propositions which have been before the other House and this body; nor do I rise for the purpose of discussing the best mode by which to attain immediate action; but it is for another purpose.

The honorable Senator from Illinois [Mr. TRUMBULL] has stated here publicly in debate that the Freedmen's Bureau bill has not been executed, and that the fault lies with the President, and the Senator from Massachusetts [Mr. SUMNER] rises and indorses that statement, as of course he might be expected to do. Now, I will read the preamble of the bill we passed day before yesterday morning, which the Senator from Massachusetts thinks expresses a great truth. That preamble says, "no legal State governments exist in the South."

Why, Mr. President, what is a legal State government? Is it a government cooked up for a State here in Congress, or is it a government that the people of the State make for themselves? I like a plain answer to a plain question. Who made these State governments? The State government of Louisiana was made by the people of Louisiana under a proclamation issued by Mr. Lincoln referring that question to them. The question then arose between Mr. Lincoln and the Senator from Massachusetts and others of his school as to whom this question should be referred to as people, or in other words, who are the people. Radical gentlemen said the people are all persons, blacks and whites all together. Mr. Lincoln, however, on consulting the lawyers, was informed that the word "people" had two significations, that in its general and ordinary signification it did mean everybody, whites and blacks; but that in its technical or political meaning it meant the people of a State who were intrusted with the political power of the State; and by what law? By the law of the State. There is no other law fixing who this technical class of persons are anywhere existing. Not even the ingenuity of those who invent so many things has ever, so far as I know, discovered any law anywhere except upon the statute-books of a State to discover who the people were to whom this question should be referred. But it seems that to be guided by the law as it was found on the statute-books on the part of Mr. Lincoln was an offense, and it is also an offense on the part of the present incumbent of the presidential chair. Mr. Lincoln was guided by the law. He could make no law; nobody was bound to obey any law which he might announce if he had undertaken it. He did not undertake it, but he took the law as he found it, and he referred the question to the people of Louisiana—the persons to whom the people of Louisiana had intrusted the ballot upon their statute-book. He directed that that should be the guide, and by way of precaution he required that the voter should take an oath of allegiance to support the Constitution of the United States.

That is the government of the State of Louisiana, and that is the government which the Senators from Illinois and Massachusetts denounce as illegal, and they propose to make one here for the people of the State; and yet, I suppose, after that they will contend that the object of the Constitution and the formation of the Union was to preserve the States free, because that was its real object. It was not to subordinate them or make their people serfs, or to take away from them any of their rights as freemen which they had brought to this country.

I go on a little further: this preamble states, and it has been reiterated here upon the floor of the Senate by the Senator from Illinois that "no adequate protection for life or property now exists in the rebel States of Virginia," and so on, naming the other States; and with a great deal of parade the Freedmen's Bureau bill has

been referred to, and the civil rights bill also, I believe, although I am not so certain about that; and it has been asserted that full provision had been made for the protection of life and property, especially to negroes, in the southern States; but that, by reason of defective execution, by reason of dereliction on the part of the President to do his duty, these laws were not executed. As was said to a man of no very remarkable veracity once before, a fictitious character, whom many gentlemen may remember as Sir John Falstaff, mark how plain a tale puts all this down, mark how easy a thing it is to tear out the scaffolding from under all these measures, and to show, as was asserted here two or three days ago, that it is all cooked up for the occasion, all trumped up to base this extraordinary legislation upon.

It does so happen that members of this body occasionally desire to see themselves in print by way of offering resolutions. Nothing is so common here as to inquire of the President and of the several Departments in regard to various matters, and perhaps one third of the force of the Departments is occupied in making answers to these queries. On the 8th day of January last a resolution was sent from this body to the President requesting him—

"To inform the Senate if any violations of the act entitled 'An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication,' have come to his knowledge; and if so, what steps, if any, have been taken by him to enforce the law and punish the offenders."

In reply to that resolution the President says:

Not being cognizant of any cases which came within the purview of the resolution, in order that the inquiry might have the fullest range I referred it to the heads of the several Executive Departments, whose reports are herewith communicated for the information of the Senate.

With the exception of the cases mentioned in the reports of the Secretary of War and the Attorney General, no violations, real or supposed, of the act to which the resolution refers have at any time come to the knowledge of the Executive. The steps taken in those cases to enforce the law appear in those reports.

The Secretary of War, under date of the 15th instant, submitted a series of reports from the General commanding the Armies of the United States, and other military officers, as to supposed violations of the act alluded to in the resolution, with the request that they should be referred to the Attorney General "for his investigation and report, to the end that the cases may be designated which are cognizable by the civil authorities, and such as are cognizable by military tribunals." I have directed the reference so to be made.

ANDREW JOHNSON.

WASHINGTON, February 18, 1867.

It will be observed here that the only heads of Departments who reported that they have heard of any, either real or supposed, violations of this law are the Secretary of War and the Attorney General. Now, I beg the Senate to listen to this terrible story of outrages in the South. I especially ask the Senator from Massachusetts, [Mr. SUMNER] who makes most fuss about these things? I believe he has repeatedly, over and over again, treated the Senate to anonymous letters on this subject; and the other Senator from Massachusetts [Mr. WILSON] has a little book in which he has a catalogue of enormities that would have sunk Sodom and Gomorrah; he has them all ticketed down. Now, I beg the attention of these honorable Senators first, and of all others in the second place, and, as I said before, mark how plain a tale will put you down; mark where your preamble goes; see where the scaffolding upon which you set these measures goes. If there are violations of the law the officers of the Freedmen's Bureau are there to see to them. That was the purpose for which the bureau was constructed; that was the purpose for which the law was passed creating it; that was the argument upon which its passage was compelled through this body and the other House; and it has been in the hands of men unquestionably as much devoted to the dominant party in this body as any men to be found in the Army. Nobody that I know of has ever complained of the action of a single agent of the Freedmen's Bureau on the ground of his neglect of what the Radical majority here supposed ought to have been his duty. Nobody ever heard of such a thing as that. These men are scattered broadcast all over the South.

I believe the other day the Senator from Michigan stated that there were fifteen hundred murders. Was it in Texas alone or all over the South?

Mr. HOWARD. In Texas.

Mr. COWAN. Fifteen hundred murders in Texas alone!

Mr. HOWARD. And permit me to say further that the gentleman who gave me this information says there are some tracts of country three hundred miles in extent which the foot of no agent of the Freedmen's Bureau ever trod.

Mr. COWAN. Well, it is exceedingly strange to me if it is so dangerous a place that the foot of a negro ever trod it. It seems to me he would have trod out of it pretty quick if there were fifteen hundred murdered there last year. I rather think the gentleman who gave the Senator his information must have been reading Dr. Livingstone's last book. He did find a country in Africa three or four hundred square miles in extent, altogether devastated and as many perhaps as fifteen hundred bodies lying there, because he says sometimes the stench almost prevented their proceeding; sometimes he found them floating in gangs in the river.

Mr. SAULSBURY. Let me ask my honorable friend a question, as I know he is always very particular in these matters. I hold that murder is not the greatest crime in this world, and I want to ask—

Mr. COWAN. Oh, do not let us go into a disquisition on the criminal law.

Mr. SAULSBURY. I want to ask the Senator if he can tell me how many divorces there have been in Massachusetts, New Hampshire, and Connecticut in the last twelve months? [Laughter.]

Mr. COWAN. If these outrages as charged were true, if there were fifteen hundred murders in Texas, if dead men's bodies lay around

"Thick as autumnal leaves
That strew the brooks in Vallambrosa"—

As the little book of the Senator from Massachusetts would incline you to believe, I should like to know why it is that all the roads lead to Rome as the other Senator from Massachusetts [Mr. SUMNER] says, all roads lead to Rome and *nulla retrorsum vestigia*, no tracks backward. All the information of this kind comes to the Senators from Massachusetts. Why is that? You see no tracks leading backward out of that cave. Nobody else can ever give this information. Here are the heads of Departments; here are the officers specially appointed to receive information of that kind, and they know nothing of it. Here is the answer of the Secretary of War. I suppose that his patriotism will not be impugned at least upon this side of the House. I suppose it will not be pretended that he has taken the whitewash brush in hand. I do not think any man who knows his character will ever suspect him of attempting any artistic feats of that kind. He will neither paint portraits nor rouge complexions I should say. Here is his report:

WAR DEPARTMENT,
WASHINGTON CITY, February 18, 1867.

SIR: I have the honor to acknowledge the receipt of Senate resolution of January 8, 1867, requesting the President to inform the Senate "if any violations of the act of Congress entitled 'An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication,' have come to his knowledge; and if so, what steps, if any, have been taken by him to enforce the law and punish the offenders," together with a report of the Attorney General on the construction of the act referred to, which papers were referred to me by you for report on the 23d of January. In answer to said reference I have the honor to report: first, that in relation to the steps taken by this Department to enforce the act of Congress referred to in the said resolution—

I beg the attention of the Senator from Illinois to this, that Mr. Stanton informs the President of what steps have been taken to enforce this law, and not that the President dictates to him or to anybody else how it shall be done. Anybody, however, desirous of knowing the truth, and anybody desirous of not misrepresenting the first officer of the Republic, might have supposed that to be the

embraces also a stable system of laws and a constitution. all the fluctuations of public opinion within its sphere, it Modern States are so vast, both in the extent of territory they cover and in the range of interests they embrace, that their existence is rendered possible only through a most complex organization under a recognized system of rules or laws. The more highly developed forms of animal organism require a proper system of organs, a series of nerves and muscles, and a skeleton. It is the same with highly developed States. They require a skeleton to keep the various members together. That skeleton is called a constitution. Much confusion of thought has resulted from the failure clearly to differentiate the State from that part of it called its constitution. Indeed, much of the argument in favour of a purely legal State is based on a confusion between the two. The constitution is a legal entity—a thing

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whose whole existence is defined and limited by law—by the positive law of the particular country. * The State includes this legal entity along with much more; for example, the whole province of ethics. It is the duty of the expert in public law to expound the rules that go to make up the constitution, and in doing so to avoid entangling himself in ethical discussions. The whole field is one that a lawyer may explain without going beyond his own proper sphere; but it is different with the State which includes a thousand

legislature—can change the law and the constitution. While the constitution has its end as well as its beginning within the sphere of law, the executive government must take its place in the world of action, and has to assume some attitude towards every element in the life of the nation.

If then the “**legal State**” has any existence in reality at all, it is only when used as a synonym for “constitution,” and is thus only one phase or aspect of the real State which embraces the whole nation, with its people and institutions, its spiritual needs and material possessions, as well as its legal machinery or skeleton.

¹ *Law and Custom of the Constitution*, Vol. I., p. 2.

APPELLANT, in a general sense, one who appeals. See **APPEAL**.

APPELLANTS, in church-history, an appellation given to such of the catholic clergy, as appeal from the constitution unigenitus, to a general council.

APPELLATIVE. Words and names are either common or proper. Common names are such as stand for court or judicature.

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APPELLATIVE. Words and names are either common or proper. Common names are such as stand for universal ideas, or a whole rank of beings, whether ge-

neral

government

The designation “government” is capitalized only if used as a part of a proper name, as a proper name, or as a proper adjective. For example, “U.S. Government,” but “government” (in general sense), “European governments.” It may be used to refer to State, local, or foreign governments. If you intend to refer only to the Federal Government of the United States, use “U.S. Government.”

and quarrels over these perplexing questions, which probably should be committed to local governments.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator that allusions to the other House, especially of a disparaging character, are out of order.

Mr. HENDERSON. I was not aware that I spoke of the House of Representatives in a disparaging manner. I have a right to speak of the amendment that they sent here.

The PRESIDENT *pro tempore*. The Chair understood the Senator to speak of the House of Representatives as having been quarreling. The Chair considers such a remark as disparaging to the House and not in order.

Mr. HENDERSON. I of course must submit; but I certainly did not intend any reflection on the House of Representatives. I meant to say that there had been a contest between the two Houses and among members of the two Houses upon these points. I certainly have a right to express my opinion in regard to an amendment which the House has adopted and sent to us for action, and which is now pending.

Take, for instance, the State of Arkansas. From a third to a half of the people are and ever have been loyal to the Government. It is admitted that the present government there is in the hands of those who waged war against us. Instead of recognizing the further continuance of that government, which will carry the State further and further every day from restoration, would it not be better to assert the jurisdiction of Congress in the premises by setting up a loyal government and placing it in the hands of those who are friendly to the Union? As a military government is utterly incapable of administering justice, the proposed administration must be of a civil nature. The Governor and Legislature should be residents of the State, men of acknowledged patriotism and undoubted moral integrity and worth. Such men can be obtained in each seceded State. In these men the people would have confidence. Their administration of public affairs, founded upon justice and moderation, would soon silence all opposition and command the respect and approval of all well-disposed citizens. To them should be intrusted the entire machinery of State government. They should call conventions when necessary, order elections, fix the qualifications for office and regulate the elective franchise until the State could be admitted with a constitution settling these questions. They should be intrusted with full legislative power, with authority to appoint judicial and executive officers, to prescribe their duties, and to aid and assist them in the enforcement of the laws. Should it become necessary, the Legislative Council or the Governor should be authorized to call upon the United States for military protection against insurrection or domestic violence. Beyond this I would not extend the military arm in the seceded States.

When this is done, reconstruction is an accomplished fact. Until it is done, all is doubt and uncertainty. As a true friend of restoration, prompt, speedy, and effective—believing as I do that this is the only safe, certain, and constitutional mode of reconstruction, and convinced as I am that the best interests of every part of the nation imperatively demand the supremacy of the civil over the military power as a means of preserving peace and republican liberty, I can but regret that some plan of this sort has not been adopted.

I have not interfered with the subject simply because it could not be debated except upon propositions coming from the Reconstruction Committee. Any propositions offered stood committed to it without debate. But so thoroughly am I satisfied of the legality, expediency, and necessity of some such plan as this that I shall feel it my duty at the beginning of the next session to present it and urge it upon the consideration of Congress.

Reluctantly I come to the support of the pending measure. I may vote for it, but the

vote will not carry my assent. It has the consent of my party friends, who think, perhaps, it is better than nothing. In that opinion I scarcely concur. In its military features it is worse than nothing. It asserts the supremacy of Congress, but fails to enforce its power. Reconstruction is left dependent first upon the caprices of the South, and second upon the interests or whims of parties now represented here. It is a subject too important to be trifled with. True patriotism should be equally deaf to the complaints of usurpation from the South, and the dictates of prejudice or party success from the North. If the South must be taxed, it must be represented. If represented at all, it must be through its loyal men. The national Union must be preserved, and no man opposed to its preservation must ask to exercise power as a means to carry out his opposition. The national faith is pledged to protect the liberties of the black man, and no schemes to violate that faith should be tolerated. The national honor is pledged to its defenders in the field and also to its honest creditors. This honor must not be tarnished. A great war has been closed in a great civil revolution, the responsibilities and duties of which must be accepted in good faith. The past must soon be forgotten, and men must prepare themselves for the future. That future can be made prosperous and happy. It needs only that prejudice be discarded. The spirit of vengeance must not be cherished. The promptings of avarice must be expelled and the true principles of republican government enforced, whatever may become of politicians or their schemes.

Mr. FESSENDEN. I wish simply to call the attention of the Senate to the fact that we shall probably be obliged, from the pressure of business and the little time that is left to us, to sit here every night; and as there is, of course, no disposition to protract this debate merely for the sake of protracting it, and as every gentleman's mind is unquestionably made up, I cannot help suggesting to our friends that we be allowed to take the question now, in order that we may have some rest to prepare ourselves for the nights when we must sit late in order to finish the business.

Mr. DOOLITTLE. I only wish to say to my honorable friend from Missouri [Mr. HENDERSON] that he has altogether mistaken me; that although I may have spoken in the heat of the moment very earnestly, I had not the slightest feeling toward him personally. I was simply speaking of the ideas that were passing between him and myself. Toward him, certainly, I have never entertained anything but the kindest feelings of personal regard.

Mr. DAVIS. The honorable Senator from Missouri just before he took his seat assumed the position that Louisiana and the other States of the South were still States, but without governments. If they are States, I ask the honorable Senator from whence he derives the power to Congress to make governments for them? I intended to put that question to the honorable Senator from Wisconsin, [Mr. HOWE,] who made a speech this afternoon before the recess. He stated that he had no more doubt of the power of Congress to pass the measure under consideration than he had of its power to levy taxes. If that honorable Senator were in his seat I would ask him whence he derives that power to Congress? I desire to have the Senator from Missouri answer the same question. While he was speaking the Senator from Illinois [Mr. TRUMBULL] handed him the Constitution, and directed him to some clauses in it. Now, I ask either of those gentlemen or any gentleman here to read to the Senate the clause of the Constitution that vests any power in Congress to pass this measure.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin [Mr. DOOLITTLE] to the amendment of the House of Representatives.

Mr. DOOLITTLE. Before the vote is taken I will state to the Senate that in consequence of the temporary illness of the Senator from

Iowa [Mr. GRIMES] I have agreed to pair off with him, and shall therefore withhold my vote.

The question being taken by yeas and nays, resulted—yeas 8, nays 33; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Hendricks, Johnson, Nesmith, Patterson, and Saulsbury—8.

NAYS—Messrs. Brown, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

ABSENT—Messrs. Anthony, Dixon, Doolittle, Grimes, Guthrie, McDougall, Norton, Nye, Riddle, Sprague, and Van Winkle—11.

So the amendment to the amendment was rejected.

Mr. WILSON. I desire to offer an amendment, but if it is objected to on this side of the Chamber I shall not press it. It is to add to the sixth section of the House amendment the following words:

And all offices now held under the assumed authority of the rebel State governments shall be vacated within ninety days after the passage of this act; and it shall be the duty of the commanding officer of each military district to enforce this provision.

The amendment to the amendment was rejected.

Mr. WILSON. I do not desire to press my amendment against the wishes of our friends on this side; but I believe it is our duty to do what it proposes in some other form and in some other bill if not on this.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made by the House of Representatives.

Mr. EDMUNDS. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. DOOLITTLE, (when his name was called.) On this question I have paired off with the honorable Senator from Iowa, who if he were present would vote for concurrence, and I should vote against it.

Mr. JOHNSON, (when his name was called.) I desire to inquire of the Chair whether a vote of concurrence in the amendments of the House has the effect of passing the bill at once?

The PRESIDENT *pro tempore*. It has.

Mr. JOHNSON. Then I vote "yea."

The call of the roll having been completed, the result was announced—yeas 35, nays 7, as follows:

YEAS—Messrs. Brown, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Harris, Henderson, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—35.

NAYS—Messrs. Buckalew, Cowan, Davis, Hendricks, Nesmith, Patterson, and Saulsbury—7.

ABSENT—Messrs. Anthony, Dixon, Doolittle, Grimes, Guthrie, McDougall, Norton, Nye, Riddle, and Sprague—10.

So the House amendments were concurred in.

ORDER OF BUSINESS.

Mr. SUMNER. I now move that we proceed to the consideration of Senate joint resolution No. 164, relative to the Paris Exposition, in order that it may be the regular business for to-morrow at one o'clock.

The PRESIDENT *pro tempore*. It will require a different motion to effect the Senator's purpose, as there is a bill now before the Senate which was laid aside informally for action on the measure just disposed of.

Mr. POLAND. I desire to move that the Senate hold an evening session to-morrow, commencing at half past seven o'clock p. m., to enable us to complete business from the Patent Committee.

Mr. WILLIAMS. Let us settle that to-morrow.

Mr. TRUMBULL. I move that the Senate do now adjourn.

The motion was agreed to; and (at ten o'clock and forty-seven minutes p. m.) the Senate adjourned.

stāte, *stat, a. & s. [O. Fr. *estat* (French *état*) = estate, case, nature, from Lat. *statum*, accusative of *status* = condition, from *statum*, superlat. of *sto* = to stand; Sp. & Port. *estado*; Ital. *stato*. *State* and *estate* are doublets.]

A. As substantive:

1. Condition as determined by circumstances of any kind; the condition or circumstances of any being or thing at any given time; position.

"I all alone beweepe my outcast state."

Shakesp.: *Sonnet* 29.

2. Rank, condition, standing, quality.

"Had he sailed according to his state."

Shakesp.: *Henry VI.*, Pt. 111., ii. 2.

*3. A seat or chair of dignity; a throne.

"This chair shall be my *state*, this dagger my scepter."

—Shakesp.: *Henry IV.*, Pt. 1., ii. 4.

*4. A canopy; a covering of state.

5. Royal or gorgeous pomp; splendor; appearance of greatness.

"High on a throne of royal state."

Milton: *P. L.*, ii. 1.

*6. Dignity of deportment.

"With what great state he heard their embassy."

Shakesp.: *Henry V.*, ii. 4.

*7. A person of high rank. (Milton: *P. L.*, ii. 387.)

*8. Estate, possession.

"Strong was their plot,

Their states far off, and they of wary wit."

Daniel, (*Todd*.)

9. Any body of men constituting a community of a particular character in virtue of certain political privileges, who partake either directly or by representation in the government of their country; an estate; as, The Lords spiritual and temporal and the Commons are the *states* (or *estates*) of the realm in Great Britain.

10. (*Pl.*) The legislative body in the island of Jersey. It consists of fifty-five persons, including the Bailiff of the island, who is *ex officio* president. The Lieutenant-Governor has a power of veto, and the States may not be convened without his consent. Guernsey has an analogous body, the Deliberative States, and a more popular assembly, the Elective States. In both islands the States deal only with questions of internal administration.

"The States of Jersey on Monday passed a measure to enable landlords to evict refractory tenants."—*Regenolds' Newspaper*, Feb. 13, 1887.

* States-General: The bodies that constitute the legislature of a country, in contradistinction to the assemblies of provinces; specifically, the name given to the legislative assemblies of France before the revolution of 1789, and to those of the Netherlands.

11. A whole people united into a body politic; a civil and self-governing community. (Often with *the*.)

"Our state thinks not so."—Shakesp.: *Coriolanus*, iv. 3.

12. The power wielded by the government of a country; the civil power, often as contrasted with ecclesiastical.

"The same criminal may be absolved by the church, and condemned by the *state*; absolved or pardoned by the *state*, yet censured by the church."—*Lesley*.

13. One of the commonwealths or bodies politic which together go to compose a federal republic, and which stand in certain specified relations with the central or national Government, and, as regards internal affairs, are more or less independent; as, The State of Pennsylvania.

* The erection of the constituent members of the American Union into their present status and reciprocal relations may be said properly to have begun with the formal ratification of the first Constitution of the United States, the order of which, by states, is given below. Prior to this action on their part, the colonies had occupied simply the position of a congeries of provinces handed together for mutual defense, and having no other organic union than a common legislative body composed of delegates sent from each colony, which delegates might be withheld and all connection with the general body dissolved by the independent action of any one of the commonwealths composing it. The first to enter the sisterhood of states by ratifying the Constitution was Delaware, which, on December 7, 1787, unanimously voted its adoption; then followed Pennsylvania, December 12, 1787, vote 46 to 23; New Jersey, December 18, 1787, unanimously; Georgia, January 2, 1788, unanimously; Connecticut, January 9, 1788, vote 128 to 40; Massachusetts, February 6, 1788, vote 187 to 168; Maryland, April 28, 1788, vote 63 to 12; South Carolina, May 23, 1788, vote 149 to 73; New Hampshire, June 21, 1788, vote 57 to 46; Virginia, June, 1788, vote 89 to 79; New York, July 26, 1788, vote 30 to 28; North Carolina, November 21, 1789, vote 193 to 75; Rhode Island, May 29, 1790, vote 34 to 32. It will thus be seen that Delaware is really

pine, pīt, sīre, sīr, marine; gō, pōt, ŷ, Sŷrian. æ, œ = ē; ey = ā. qu = kw.

4. Agreement carrying an obligation to enter into a certain contract.

5. Bilateral promises of marriage.

IV. BILATERAL DISPOSITIONS.

1. Exchange.

2. Sale and purchase.

3. Exchange of money.

4. Purchase of bills of exchange.

5. Purchase of rent without mortgage.

6. Purchase of rent with mortgage.

V MIXED CONTRACTS, CONTAINING DISPOSITIONS AND PROMISES.

1. Loan of money, gratuitous or at interest.

2. Assurance, gratuitous or for a premium.

3. Renting a house, &c.

4. Letting a house, &c.

5. Pledging.

6. Marriage contract.

7. Contract of apprenticeship.

8. Hiring of a servant, of a workman, in a manufactory, or in agriculture or other productive labours; of a clerk, of a shopman.

9. Voluntary enrolment.

10. Donation in trust.

11. Legacy in trust.

12. Articles of partnership in commerce.

13. Deposit under an order of court.

14. Articles of partnership in manufactures.

15. Deposit in respect to a price to be paid in *futurum* by the depositor.

16. Loan of goods for a price in *futurum*.

17. Adoption.

SPECIES OF DEPOSITS.

These species are constituted by the different ends for which the contract is established.

(1.) *On account of the depositor*:—

1. Simply to keep the thing—housekeeper, innkeeper.

2. Simply to transfer from one place to another—carrier, captain of a vessel, for transport.

3. To improve—farrier, dyer, miller, tailor.

4. To employ without amelioration, but

punishment and reward. It may be employed in the way of subornation for all imaginable crimes. Bet, for example, that a certain person does not live beyond a certain time, and trace the consequences which such a bet may have.

In the case of losses by fire and shipwreck, assurance is only a species of wager; and its effects as an instrument of subornation are only too well known.

It may have a mischievous effect by its application to adjective law—to procedure. During the time that the sex of the Chevalier D'Eon was doubtful, it became the subject of a wager. The action was brought in one of the courts of Westminster, and many persons were called to appear and depose upon this subject. This species of wager might be designated by the name of *wager of vexatious inquisition*.

without consumption, that is to say, entire destruction—as tools, fixed capital of a manufacture, servants.

5. To be consumed—as wood for firing, drugs for dying, ink for writing.

(2.) *On account of the depositary*:—

6. Deposit of a thing gratuitously lent.

7. Deposit of a thing hired.

(3.) *On account of the depositor and depositary*:—

8. Association with regard to things acquired by a co-associate, for the profit of the society.

(4.) *On account of the one or the other, according to the event*:—

9. The pledger, and receiver in pledge.

CHAPTER XVII.

NINTH GENERAL TITLE OF THE CIVIL CODE.

Of the Domestic and Civil States.

THIS general title is established, that it may serve as a general depot for the laws which regard the different offences against these respective states. Here ought to be found the catalogue of the classes of persons who possess rights or duties due to them:—masters, servants, guardians, wards, parents, children, proxies, &c.; whilst with respect to political conditions—that is, those which are founded upon some political power, or some duty subordinate to it—reference should be made to the constitutional code.

The domestic or civil state is only an ideal base about which are ranged rights and duties, and sometimes incapacities. It is proper in all conditions to distinguish the work of nature, or of the free man, from the work of the law. The natural state is the foundation, the base; the *legal state* is formed by the rights, the obligations, which the law adds thereto. To know a state, is therefore to know separately the rights and the obligations which the law has added to it: but what is the principle of union which binds them together, to make the factitious thing which is called a *state*, a *condition*? It is the identity of the investive event with respect to the possession of that state.

Under this head, the most striking examples will be found of the variety and extent of adjective obligations. A boy and a girl marry—they do not see at first in their union anything more than the accomplishment of the wish which had been the motive of it. At the same moment the law interposes and imposes upon them a multitude of reciprocal obligations, of which the idea had never been presented to their minds.

It is true that this distinction of fundamental and adjective obligations depends only upon the negligence of the legislator. If he had taken pains to facilitate the knowledge of the laws, the citizen would have

by the neglect of that right and the violation of that duty, not to govern them at all, but to leave them, in destitution of any suitable external control, to do what mischief they pleased to each other, and to the rest of the good people of the United States.¹

¹ Since this work went to the press, Congress have passed, by more than a two-thirds vote of both Houses, "An Act to provide a more efficient government for the rebel States;" which has (March 2) become a law, notwithstanding the President's veto.

It recites, that "no **legal State** governments . . . now exist in the rebel States," and that some government is "necessary . . . until loyal and republican governments can be legally established;" and enacts that they "be divided into five military districts, . . . subject to the military authority of the United States." That each district shall be assigned to a general officer of the army, with "a sufficient military force to enable him . . . to enforce his authority." That it shall be his duty . . . to protect all persons in their rights; . . . to suppress insurrection, disorder, and violence; . . . to punish disturbers of the peace and criminals." He may allow "local civil tribunals," or "organize military commissions or tribunals for that purpose;" and all State "interference . . . shall be null and void." No military sentence affecting life or liberty shall be executed without the approval of the officer in command; and no sentence of death, without that of the President. "When the people of any one of said rebel States shall have formed a government in conformity with the Constitution of the United States, . . . framed by delegates elected by the male citizens of said State, twenty-one years old or upwards, of whatever race, color, or previous condition," except disfranchised rebels and felons; their constitution providing "that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question," . . . and been submitted to Congress and approved; and when said State, by vote of its legislature elected under said constitution, shall have adopted the fourteenth Amendment," and it "shall have become a part of the constitution,"—then said State may be represented in Congress, and the first four sections of this Act become inoperative: provided that no person excluded from office by the fourteenth Amendment shall be a delegate for forming such State constitution, or vote in the choice of a delegate. That, until the people shall be admitted to representation in Congress, any civil government therein shall be provisional only, "and shall be in all respects subject to the paramount authority of the United States." In all elections under

to Smithfield, covering Raleigh. Sherman then occupied Goldsboro, whence he advanced on April 10th. Johnston retreated through Raleigh, and on April 26th surrendered his entire army, then reduced to about 31,000 men. In the meantime, a cavalry force under General Wilson had swept through Alabama from the north, and passed into Georgia, occupying Selma on April 2d, Montgomery on the 12th, and Columbus, Ga., on the 16th. Mobile was taken on April 12th by General Canby, aided by a fleet under Admiral Thatcher. On May 4th, General Taylor surrendered the Confederate forces in Alabama to General Canby. The last fight of the war occurred May 13th, on the Rio Grande in Texas, between Colonel Barrett (Federal) and General Slaughter (Confederate), the latter being victorious. The trans-Mississippi army of the Confederates, the last in the field, was surrendered by Kirby Smith on May 26th. During the war Confederate cruisers, mostly built and fitted out in British ports, and manned by British sailors, scoured the ocean. Evading vessels of war, they destroyed hundreds of merchantmen, doing irreparable injury to the commerce of the Union. The chief of these were the "Alabama," "Chickamauga," "Florida," "Georgia," "Olustee," "Shenandoah," "Sumter," and "Tallahassee." The "Alabama," the most famous, commanded by Raphael Semmes, was sunk off Cherbourg, France, June 19, 1864, by the United States steamer "Kearsarge," commanded by Captain Winslow. After the fall of Richmond, President Davis of the Confederacy fled south, and was captured at Irwinville, Ga., by General Wilson's forces, May 10, 1865. He and some other prominent leaders were imprisoned for a time, but no man was punished for participation in the rebellion. The National Republican Convention assembled at Baltimore on June 7, 1864, and nominated President Lincoln for reelection, and for vice-president Andrew Johnson of Tennessee. The platform pledged a vigorous prosecution of the war for the suppression of the rebellion, and favored an amendment to the Constitution abolishing slavery. The National Democratic Convention assembled at Chicago on August 29th, and nominated General George B. McClellan for president, and for vice-president George H. Pendleton of Ohio. The election took place on November 8th, the eleven seceded States not participating. McClellan and Pendleton received the electoral votes of New Jersey, Delaware, and Kentucky, 21; Lincoln and Johnson received those of all the other States, 212, and were elected. On March 4, 1865, Lincoln's second inauguration took place. On April 14th he was assassinated by John Wilkes Booth, and the Secretary of State, Mr. Seward, dangerously wounded by another conspirator; and on the following day Vice-President Johnson entered upon the duties of the presidency. The question of emancipation early attracted the attention of the administration and Congress. On April 16, 1862, an act was passed abolishing slavery in the District of Columbia, and on June 9th another act declared that slavery should not thereafter exist in the Territories. On January 1, 1863, Mr. Lincoln issued a proclamation de-

claring free all persons held as slaves within the States or portions of States then in rebellion. The 13th amendment to the Federal Constitution, declaring that slavery shall not exist within the United States or any place subject to their control, was declared adopted by the proclamation of the Secretary of State on December 18, 1865. The first step toward the reconstruction of loyal governments in the seceded States was the proclamation of President Lincoln of December 8, 1863. Under this scheme governments were organized in Louisiana and Arkansas in the early part of 1864, and in Tennessee early in 1865, but senators and representatives from those States were not admitted to Congress. After the close of the war President Johnson appointed provisional governors for several of the seceded States. But Congress did not approve this scheme of reconstruction, and senators and representatives from those States were not admitted. In June, 1866, a joint resolution adopted by Congress proposed the 14th amendment to the Constitution, extending the rights of citizenship to all classes of native and naturalized persons, guaranteeing the validity of the national debt, forbidding the payment of any part of the Confederate debt or of claims for the loss of slaves, etc. In July senators and representatives were admitted from Tennessee, that State having ratified the 14th amendment. On January 8, 1867, an act was passed over President Johnson's veto, conferring the right of suffrage on colored citizens of the District of Columbia, and on the 24th a similar act became a law for the Territories. The congressional plan of reconstruction was developed in the act of March 2d and the supplementary acts of March 23d and July 19th, each of which was passed over the President's veto. These acts declared that "no legal State Governments or adequate protection for life or property now exist in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Florida, Texas, and Arkansas," and divided them into five military districts. The district commanders were required to make a registration of voters, comprising male citizens of the United States 21 years old and upward, without regard to race, color, or previous condition, who had resided in the respective States one year, and were not excluded from holding office by the 14th amendment. Delegates were to be elected in the several States by the registered voters to conventions for framing new constitutions. Only when constitutions had been adopted conferring the right of suffrage on colored persons, and such constitutions had been approved by Congress, and when the 14th amendment had been ratified by the legislatures of the respective States, were senators and representatives to be admitted. The conditions of these acts were complied with in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, and South Carolina in 1868, and in Mississippi, Texas, and Virginia in 1870. But the subsequent action of the legislature of Georgia in excluding colored members led to further measures on the part of Congress, and delayed the final restoration of that State until 1870. The adoption of the

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14th amendment was proclaimed on July 28, 1868. In February, 1869, a joint resolution proposing the 15th amendment to the Constitution, prohibiting the denial or abridgement by any State of the Union of the right to vote on account of color or previous condition of servitude, was passed. The difference between President Johnson and Congress on the question of reconstruction led to his separation from the Republican party, and to the passage on March

of Ohio for president, and William A. Wheeler of New York for vice-president. The National Democratic Convention, which assembled at St. Louis on June 27th, nominated Samuel J. Tilden of New York for president, and Thomas A. Hendricks of Indiana for vice-president. Hayes and Wheeler, although they received a minority of the popular vote, were declared by a special commission, whose report was adopted by Congress in joint convention, to have been

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The country accepted the act, and there were those who thought this enough. But Congress, adopting the view that further amendments were necessary; and, either holding that the ratification of three-fourths of all the States was required; or else wishing to test the fact, that these States so lately in rebellion, had given evidence of loyalty and submission, and claiming for Congress the power to impose further conditions than the President had demanded, with a view to secure liberty and equal political rights to all, and to compel those States to ratify the amendment, enacted the following series of laws:—

Act of
March 2,
1867.

"An Act to provide for the more efficient Government of the Rebel States."

Preamble?

"WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States, until loyal and republican State governments can be legally established; therefore,

How are
certain rebel
States to be
divided,
and subject-
ed to
military
authority?

"Be it enacted, &c., That said rebel States shall be divided into military districts, and made subject to the military authority of the United States as hereinafter precribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina, the second district; Georgia, Alabama, and Florida, the third district; Mississippi and Arkansas, the fourth district; and Louisiana and Texas, the fifth district.

Is the
President
to assign an
army officer
to command
each dis-
trict?

"2. It shall be the duty of the President to assign to the command of each of said districts, an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties, and enforce his authority within the district to which he is assigned.

Military
force to be
detailed?
What are
the duties
of command-
ers of
districts?
Local civil
tribunals?
State inter-
ference de-
clared null?

"3. It shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority with the exercise of military authority under this act, shall be null and void.

Persons
under
military
arrest to be
speedily
tried?
What rule
of punish-
ment?
How are
sentences of
military
tribunals to
be executed?

"4. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided,* That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

Secs. 1-5.]

TERMS OF ADMISSION, 286.

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"5. When the people of any one of said rebel States shall have formed a constitution of government in conformity with the Con-stitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law, and when such Constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such Con-stitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors

Upon what
conditions
are States
entitled to
representation
in
Congress?
Delegates to
conventions,
by whom
elected?
What is the
elective
franchise?

of property or the community of wives and children—an this is open to grave objection. But all these objections cannot detract from the fundamental value and merit of his political work. Its greatness depends on the new *postulate* introduced by Plato. This postulate was unforgettable. It stamped the whole future development of political thought.

Plato began his study of the social order with a definition and an analysis of the concept of justice. The state has no other and no higher aim than to be the administrator of justice. But in Plato's language the term justice does not mean the same as in common speech. It has a much deeper and more comprehensive

17. See *Republic*, 380. Cornford trans., p. 70.

18. See the chapter on "Solon" in Jaeger's *Paideta* (see above, p. 62, n. 4) (1939), I, 134-147.

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meaning. Justice is not on the same level with other virtues of man. It is not, like courage or temperance, a special quality or property. It is a general principle of order, regularity, unity, and lawfulness. Within the individual life this lawfulness appears in the harmony of all the different powers of the human soul; within the state it appears in the "geometrical proportion" between the different classes, according to which each part of the social body receives its due and coöperates in maintaining the general order. With this conception Plato became the founder and the first defender of the Idea of the **Legal State**.

Plato was the first to introduce a "theory" of the state, not as a knowledge of many and multifarious facts, but as a coherent system of thought. Political problems in the fifth century were in the center of the intellectual interest. More and more "wisdom" (*sophia*) tended to become political wisdom. All the famous sophists regarded their doctrine as the best, and indeed, as an indispensable introduction into political life. "Who will listen to me," says Protagoras in the Platonic dialogue which bears his name, "will learn to order his own house and he will be best able to speak and act in the affairs of the state."¹⁹ Long before Plato the question of the "best state" had been often and eagerly discussed. But Plato is not concerned with this question. What he is asking for is not the best but the "ideal" state. That makes a fundamental difference. It is one of the first principles of Plato's theory of knowledge to insist upon the radical distinction between empirical and ideal truth. What experience gives is, at best, a right opinion about things; it is not real knowledge. The difference between these two types, between *doxa* and *episteme*, is inefaceable. Facts are variable and accidental; truth is necessary and immutable. A man may be a statesman in the sense that he has formed a right opinion about political things and that he has a natural talent which, in Plato's language, is described as a gift of the gods (*θεία μοίρα*). Yet that does not enable him to give a firm judgment, because he has no "understanding of the cause."²⁰

According to this principle Plato had to reject all mere practical attempts to reform the state. His was quite a different task: he had

the conqueror necessarily has the right to dispose of that which belongs to him in any manner he may think best.

We propose by this bill to control the subjugated people in this conquered territory by the military power temporarily until such times as loyal civil government can be established there and maintained without the aid of the military power. But in order to find authority in Congress to pass this bill I am not compelled to go so far with the argument based upon this clause of the Constitution as to even inquire whether it authorizes any disposition to be made of the territory captured or wrested from the confederate government. This clause in the Constitution relates to "captures," and it cannot be denied but that we have authority to make rules and regulations concerning such captures. This bill only proposes to regulate the captured rebels; it does not interfere with property. But I am not driven to rest the right of Congress to pass this bill upon this clause alone. I call the attention of the House to another clause of the Constitution. It is this:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The late rebel States are to all intents and purposes as much territories of the United States, subject to the exclusive control of Congress, as are the Territories of Utah, New Mexico, Montana, or any other Territory belonging to the Government. Congress has not yet vested the people of these so-called States with authority to establish local governments, but has so far retained the right to exercise all legislative authority for them, and in the exercise of that authority we propose to establish temporarily military governments in these so-called States for the security of life, liberty, and property. This is not, strictly speaking, a measure of reconstruction, but a measure looking simply to the enforcement of order. It seems to me clear, then, that, not only under the laws of war and under the law of nations, but under the express authority of the Constitution itself, Congress possesses the rightful authority to establish military governments, as proposed by the bill under consideration.

And here I ask the gentleman from Ohio [Mr. BINGHAM] this question: if these late rebel States are States in the Union, are they not of right entitled to a vote upon any resolution proposing an amendment to the Constitution? I believe the gentleman himself holds that the constitutional amendment when ratified by three fourths of the adhering loyal States will be binding.

Mr. BINGHAM. If the gentleman will permit me, I will save him all trouble on that point. I stated that no State can exercise the local functions of a State without having complied with the conditions precedent set out in the Constitution of the United States, which I recited; and these States having broken down their legal State governments have ceased to be capable of exercising these functions. While, therefore, they do remain States for Federal purposes, they have no voice in the matter.

Mr. INGERSOLL. Certainly, for local State purposes they have no existence.

Mr. BINGHAM. Nor for political purposes.

Mr. INGERSOLL. Well, sir, if that is true they are not States enough to "hurt."

[Laughter.] Mr. BINGHAM. The gentleman forgets one thing: unless they do remain States, with the boundaries of States according to the original law of the State, where is the boundary of this jurisdiction that touches life and property by this bill? I maintain that every thing remains intact, as though no rebellion had happened as to the Federal Government. Unless they are held to be States for Federal purposes there must be a general jail delivery.

Mr. INGERSOLL. This in my judgment

does not necessarily follow; but as the proposition of the gentleman is all on our side I do not propose to combat it. They are States for our purposes, but not for their own. [laughter;] so he says. That they are States in the legal sense of the term I deny; they are Territories, nothing more, and as such are subject to the control of Congress, the law-making power of the Government.

But this question I have no desire to debate further with the gentleman from Ohio, [Mr. BINGHAM,] for he lays down the proposition that these are States for Federal purposes, and that it is at our option whether we will recognize them or not as States as regards local legislation or State government. Now, I do not know how I could go further than that. Who could go further? When a State government destroys its civil and political organization surely it ceases to be a State. But let this pass.

The President of the United States, in his proclamation to Governor Holden, declared that the State of North Carolina by the rebellion had become "deprived of all civil government," and by just inference had ceased to be a State. It is by and through its political organization that a State lives, moves, and has a being. When the State government becomes defunct there is nothing left but a dead hulk. Thus much I have said in regard to the status of these so-called States, and I think I have established the fact to the satisfaction of reasonable and intelligent men that they are but territories of the United States, and subject rightfully to the exclusive control of Congress.

And now, sir, a few words with regard to this particular bill. Whether it be the wisest and best measure that can be conceived I will not attempt to say; what will be the effect of it should it become a law I will not attempt to describe; what hindrances will be thrown in the way of its operation by the President of the United States I can hardly imagine; what power he may exercise to delay, hinder, and trammel the operations of the law I can hardly conceive. But before I go further upon this point, I desire to call your attention to the fact that this is a measure looking to the pacification of the rebel States and not to their reconstruction. Now, suppose we lay aside, for the moment, the "rebel States" and talk about the reconstruction of the people of those States. The people, not the States, have been making war upon our Government. Then let us deal with the people, and when we have succeeded in reconstructing them, the States, it may then be said, are reconstructed. Whenever you can throw around the loyal people of the southern States the protection of law, enforced, if needs be, by military power, you will form a nucleus around which we can rally all the Union sentiment of this now suffering and outraged people, and it will grow and expand into a power that will reconstruct those territories upon a loyal basis and restore them to the Union regenerated and redeemed from treason.

But, sir, I will not dwell upon this subject. The labor of the last Congress and of this Congress, so far in the work of reconstruction, has been labor lost. What real progress has been made? The President has tried for nearly two years his policy, and Congress has attempted from time to time to put in operation some plan of reconstruction, but by reason of the opposition of the President and his friends they have all been defeated. The President's policy has not proved to be a success. It is a miserable failure. The joint Committee on Reconstruction have reported this bill to the House and recommend its passage, and I am sure that no member need hesitate to vote for it, for if it becomes a law it cannot make matters worse than they now are, and it may make them better. Something should be done, and done at once. The condition of things there has been growing worse from day to day since the day of their surrender. Crime is holding a

high carnival there; industry is in a great measure paralyzed; the Congress is repudiated and denounced as an unconstitutional body, and the laws of Congress are continually pronounced unconstitutional by the courts of these States, and all that stands in the way of the restoration of the rebel aristocracy to power is crushed out by violence or by the decision of their courts. Gentlemen object to this bill because it proposes to place the people of those States under military authority; but we must remember that these are rugged times, and that to remedy the state of things that exist rugged measures must be resorted to.

The resolution proposing an amendment to the Constitution was submitted to them in good faith in the hope that it might be ratified and form an equitable basis for the reconstruction of those States. But so far as those States have acted upon it they have rejected it.

The exercise of civil power under the President's policy has been tried and proved unavailing. Shall this condition of things last always, or shall we try some more stringent measure in the hope that it will result in the restoration of harmony and of peace?

This bill may not, possibly, effect the object desired, but it will have this effect if no other: it will topple over these spurious governments set up by the power of presidential usurpation; it will teach those people that they must look to Congress and not to the President for the terms of peace and reunion. It will teach the President that the law-making power does not intend to yield its right to pass upon the validity of any government that may be formed in these States; it will inform him that he is not the law-making power of the government, but simply the Executive to execute the will of the loyal people as expressed by their Representatives in Congress.

But more than this I will not say it will accomplish, for I am satisfied that the President will do all in his power to defeat the object sought to be attained in this bill. Judging from what he has done in the past I have a right to anticipate his action in the future.

This bill purposely withholds from the President the power to assign the generals who are to command the various districts, and vests that power in General Grant. This is one of the best features in the bill. The loyal people know that they can trust General Grant. He has been weighed in the balance and not found wanting. This in itself guarantees a fearless, honest, and faithful execution of the powers contained in the bill.

I have no fear in vesting this power in the General of our armies, for I believe he will exercise it wisely, prudently, and firmly, as he has exercised all the other powers that have been conferred upon him, and he will appoint judicious and able generals to command these districts. In judging of the fitness, capacity, and qualifications of an officer he has probably no superior in the world.

But I am met by the objection that the President is Commander-in-Chief of the Army, and that he may rescind any order that General Grant may make under the provisions of this bill. I reply that the President by virtue of his being Commander-in-Chief of the armies may rescind any order that the General in his discretion may make.

The President is made by the Constitution for the time he exercises the functions of that office the superior officer of General Grant, and as such superior officer he may possess the power to supervise, change, or rescind an order of the General, but the question is, will he have the temerity to do it in the face of and in violation of this law? If this bill becomes a law it is not assuming too much to say that General Grant will promulgate the necessary orders to carry it into execution. He will assign the various generals selected by himself to the command of these several districts. I am asked in case he does, what is there to prevent the

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erned by an officer of the Army not below the rank of a brigadier general, to be assigned to his command by the President, and calls for a detail of a sufficient military force to enable each commanding officer to perform his duties and enforce his authority within the district to which he is assigned. These officers are to have supreme control over the persons and property of all within their respective districts; they are to have power to try offenders and to sentence and imprison for an unlimited period of time; to make confiscations of property and exercise absolute and despotic power over the people who are subjected to their authority, people who have no right of appeal to any court or reviewing tribunal in any case save one—where a person shall have been condemned to suffer the death penalty, in which case the proceedings on the trial and the sentence must be forwarded to the President for his approval.

Mr. Speaker, I am so amazed by this extraordinary proposition as to be unable fully to express my sentiments in regard to it at this time. In those States which are to be made by it the victims of military government and military injustice the rebels had long ago laid down their arms, peace existed, provisional governors had been appointed, the civil powers of the different States were in full play, the courts were open and justice was peacefully administered, everything was working regularly and harmoniously toward complete reunion, when this bill comes before us, overthrowing all the work toward restoration done in nearly two years, and proposing the creation of a body of military governors, not only unknown to the Constitution of the United States, but in direct violation of its injunctions.

And now, sir, let me ask what necessity is there for the passage of this bill, which, if it shall pass, will change substantially the whole form of our Government and present to the world the strange spectacle of more than one half of our country governed by the civil power under the Constitution, and the remainder governed by a military despotism, in contravention of the provisions of that instrument? This proposition is not only inconsistent, ridiculous, and absurd, it threatens not only to destroy the rights, liberties, and privileges of the citizen, but it threatens also to overthrow our republican form of government, and to override the organic law of the nation. If the Congress of the United States can place military governors over ten States of this Union in the absence of any constitutional right to do so, why may they not place a military governor over every other State, until at last we shall be merged into an absolute monarchy or a military despotism? The Constitution tells us that the military must always be subordinate to the civil power in time of peace? This Congress, when it deemed it needful to urge that the Constitution was in existence and required amendment, as it did some time ago upon the first amendment, demanded and secured the assistance of three of those States which it is now proposed to place under military law before that constitutional amendment could be legally approved of. For that purpose Congress recognized those States as States in the Union under the Constitution; but when they desired to be represented their representatives were refused, and they were informed that they were not States, but merely Territories.

How often has our Constitution been violated within the last five years by the party in power? It would take up the balance of my time, Mr. Speaker, to enumerate the one twentieth part of the horrible violations of law committed by that party during the rebellion; but I will cite a few instances. The suspension of the writ of *habeas corpus*, for example, in States not in rebellion and where the civil courts were open; the forcible invasion of private houses by pretended officers without process of law; the incarceration of citizens for months without any

intimation as to the cause of their being placed in confinement, and their release without any explanation of why they were arrested or why they were discharged; unlawful seizures of property; cruel and unusual punishments, &c.; all these and many other shameful acts of violence, in direct contravention of the organic law of the land, which law, if obeyed and regarded, would have been amply sufficient to protect the rights, liberties, and privileges of the citizen, and at the same time to enforce the authority of the Government. Before this bill passes I should like to hear the gentleman having it in charge—although it comes to us in the shape of an amendment adopted by the Senate upon the motion of Senator SHERMAN—I would like to ask the gentleman who has this bill in charge to explain to me the necessity for its passage. However, my time is limited, and he will be entitled to the closing argument.

I will pass by the incorrectness of the preamble, which denies the existence of any legal State governments or any adequate protection for life or property in the States named. If it be true that those State governments are not legal, why not? Several instances occur to my mind in which, when it was necessary to use them as States possessing legal State governments, Congress demanded concessions from them as States, and held the Constitution of the United States in *terror* over their heads until their demands were complied with. But we find now that no sooner do those States yield to these demands made upon them as States than Congress, throwing aside the Constitution, proposes to deny them any legal existence as States. This measure is in harmony with the inconsistent legislation that has characterized the greater portion of the existence of this Congress.

But we are told in the preamble that no adequate protection for life or property now exists in the hitherto rebel States. Now, sir, from the information which I have received from various quarters I am clearly of the opinion that that statement is not true in point of fact. But even if it were so the difficulty could be remedied, and life and property might receive adequate protection under existing laws. With the power of the President of the United States, having control of the Army and Navy, might he not have sent, and can he not now send, without the passage of any such bill as this, any portion or if necessary the whole of the Army of the United States for the purpose of securing adequate protection to life and property? It is not my design, Mr. Speaker, to contend that adequate protection shall not be given to life, liberty, and property in that portion of the Republic, and it is not because I do not wish to see such protection secured to the people there that I oppose the passage of this bill. But, sir, I oppose it because it is based upon a principle so contrary to my sense of right in such gross violation of the great principles upon which our Republic was founded, in such plain contravention of the organic law of the land under which we have lived and prospered and grown great for nearly three quarters of a century, that I feel impelled by a sense of duty to my constituents to rise upon the floor and protest in their behalf, in the name of the Republic, and in the name of the Constitution of the United States, against this invasion and violation of that instrument and of the rights of the people of America.

Are we drifting into a revolution? Pass this bill, and my word for it it will come at no distant day. We are tending, it appears, toward a monarchical government, and the first step toward that is to put the military power unlawfully above the civil power under pretense of preserving peace and maintaining justice and securing protection to a certain portion of the people of a certain section of the country. Without the passage of this bill, as the law now stands, it is the President's sworn duty to carry out all that is contemplated by this bill,

if the intention of the bill is honestly expressed in the preamble. But, sir, in my judgment, the designs of this bill are not expressed; there is a cat under the meal. This is a mad attempt to make history repeat itself. Rome, when she was in the zenith of her power, contributed by her government to the happiness and greatness of her people; but the time came when bad men were chosen to direct the ship of state, and she at last fell a martyr to the cry of "justice, protection to the citizen;" and where is she now? Controlled by such laws as this which we are now asked to enact for the southern portion of our own country, all that remains of her might be summed up in her title, the Seven-Hilled City.

If Robespierre, when he made the guillotine wreak with the blood of innocent men, some of whom were sacrificed for differing in opinion from him and his colleagues, and others for refusing to be as "progressive" as he required, (and I do not wish to institute any invidious comparisons, or I might point out those in this country who are quite as progressive as were the men of that day.) Robespierre, I say, would have been delighted to have had such a semblance of authority for his actions as is now proposed to be given to those military officers by this bill. Robespierre had no sanction of law for his crimes; but under the name of suppressing insurrection and violence, these governors who are to be appointed under this bill, may do all that Robespierre did; may violate every command in the Decalogue and escape all punishment; for there is no right conferred upon any one to try or punish them for their misdeeds. No voice of complaint may come up from the prison house after condemnation by one of these military tribunals. The weeping and wailing of the unfortunates who may be stripped of their property and dragged from their homes under the provisions of this bill can never reach the Executive Mansion or this body. The commanding general interposes an impassable barrier in the way of an appeal for a review of his decision. However illegally these generals may conduct themselves there is no provision in the Constitution which recognizes them or holds them to any responsibility, nor is there one single word, a saving-clause, in the bill itself by which they may be tried or punished for their misconduct.

Can any man in this House tell me from whence the authority is derived to pass this bill? The powers of Congress are clearly defined by the Constitution. Each branch of the Government has its rights and powers defined and limited by the Constitution; and there is not one single line or word in that hitherto sacred instrument that can possibly be cited to justify the passage of this anomalous, this dangerous, this wicked bill. Has it come to this, that the Congress of the United States is ready to substitute its own will for the authority of the Constitution, and to weaken the force of the Government by attempting to withdraw from the President his constitutional powers, and to create illegal tribunals in violation of the organic law? I understand that the original bill for which this amendment has been substituted purposed to take away from the President the right to assign these officers to their respective commands; but a little reflection induced the Senate to see that there was a limit beyond which even that body could not go without outraging the public sense as well as the organic law, and in this amendment they have kindly consented to permit the President to assign those gentlemen to the command of their respective districts. Is not the Army of the United States as competent now, if ordered down into those hitherto rebel States, to secure adequate protection to the citizen as a portion of that same Army will be when sent down under the provisions of this bill. If the Army were sent there in the former way, an officer who misbehaved himself in any way

Post roads es-
tablished in
Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post routes :

MAINE.

From Kennebunk, via Kennebunkport, to Cape Neddick.

From Biddeford to Saco Pool.

APPROVED, July 19, 1867.

July 19, 1867.

1867, ch. 153.

Vol. xiv. p. 428.

Ante, p. 2.

Post, pp. 29, 30.

Meaning of
chap. 153 of acts
of 1867, &c. de-
clared.

Governments
in certain rebel
states declared
not to be legal.

Commander of
district may sus-
pend or remove
any civil or
military officer,
subject, &c. and
may appoint to
the vacancy.

CHAP. XXX. — *An Act supplementary to an Act entitled "An Act to provide for the more efficient Government of the Rebel States," passed on the second day of March, eighteen hundred and sixty-seven, and the Act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to have been the true intent and meaning of the act of the second day of March, one thousand eight hundred and sixty-seven, entitled "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the twenty-third day of March, in the year one thousand eight hundred and sixty-seven, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were not **legal State** governments; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress.

SEC. 2. *And be it further enacted,* That the commander of any district named in said act shall have power, subject to the disapproval of the General of the army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof, and upon such suspension or removal such commander, subject to the disapproval of the General as aforesaid, shall have power to provide from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

ARKANSAS

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to the people. On the 16th of May Arkansas became one of the Confederate States of America.

In the years of war that followed, a very large proportion of the able-bodied men of the state served in the armies of the Confederacy; several regiments, some of coloured troops, served the Union. Union sentiment was strongest in the north. In 1862-1863 various victories threw more than half the state, mainly the north and east, under the Federal arms. Accordingly, under a proclamation of the president, citizens within the conquered districts were authorized to renew allegiance to the Union, and a special election was ordered for March 1864, to reorganize the state government. But meanwhile, a convention of delegates chosen mainly at polls opened at the army posts, assembled in January 1864, abolished slavery, repudiated secession and the secession war debt, and revised in minor details the constitution of 1836, restricting the suffrage to whites. This new fundamental law was promptly adopted by the people, i.e. by its friends, who alone voted. But the representatives of Arkansas under this constitution were never admitted to Congress.

The Federal and Confederate forces controlled at this time different parts of the state; there was some ebb and flow of military fortune in 1864, and for a short time two rival governments. Chaotic conditions followed the war. The fifteenth legislature (April 1864 to April 1865) ratified the Thirteenth Amendment, and passed laws against "bush-whacking," a term used in the Civil War for guerilla warfare, especially as carried on by pretended neutrals. Local militia, protecting none who refused to join in the common defence, and all serving "not as soldiers but as farmers mutually pledged to protect each other from the depredations of outlaws who infest the state," strove to secure such public order as was necessary to the gathering of crops, so as "to prevent the starvation of the citizens" (governor's circular, 1865). Struggling in these difficulties, the government of the state was upset by the first Reconstruction Act. The governor in these years (1865-1868) was a Republican, the castor of the single Union vote in the convention of 1861; but the sixteenth legislature (1866-1867) was largely Democratic. It undertook to determine the rights of persons of African descent, and regrettable conflicts followed. The first Reconstruction Act having declared that "no **legal state** government or adequate protection for life or property" existed in the "rebel states," Arkansas was included in one of the military districts established by Congress. A registration of voters, predominantly whites, was at once carried through, and delegates were chosen for another constitutional convention, which met at Little Rock in January 1868. The secessionist element was voluntarily or perforce excluded. This convention ratified the Fourteenth Amendment, and framed the third constitution of the state, which was adopted by a small majority at a popular election, marred by various irregularities, in March 1868. By its provisions negroes secured full political rights, and all whites who had been excluded from registration for the election of delegates to the convention were now practically stripped of political privileges. The organization of Arkansas being now acceptable to Congress, a bill admitting it to the Union was passed over President Johnson's veto, and on the 22nd of June 1868 the admission was consummated.

Arkansas now became for several years Republican, and suffered considerably from the rule of the "carpet-baggers." The debt of the state was increased about \$9,375,000 from 1868 to 1874, largely for railroad and levee schemes; much of the money was misappropriated, and in a case involving the payment of

Elisha Baxter (1827-1899) was the regular Republican candidate for governor in 1872. He was opposed by a disaffected Republican faction known as "brindletails," or, as they called themselves, "reformers," led by Joseph Brooks (1831-1877), and supported by the Democrats. Baxter was irregularly elected. The election was contested, and his choice was confirmed by the legislature, the court of last resort in such cases. He soon showed a willingness to rule as a non-partisan, and favoured the re-enfranchisement of white citizens. This would have put the Democrats again in power, and they rallied to Baxter, while the Brooks party now assumed the name of "regulars," and received the support of the "carpet-bag" and negro elements. After Baxter had been a year in office Brooks received a judgment of *oust* against him from a state circuit judge, and got possession of the public buildings (April 1874). The state flew to arms. The legislature called for Federal intervention (May 1874), and Federal troops maintained neutrality while investigations were conducted by a committee sent out by Congress. As a result, President Grant pronounced for Baxter, and the Brooks forces disbanded.

The chief result was another convention. In 1873 the article of the constitution which had disfranchised the whites was repealed, and the Democrats thus regained power. By an overwhelming majority the people now voted for another convention, which (July to October 1874) framed the present constitution. It removed all disfranchisement, and embraced equitable amnesty and exemption features. It also took away all patronage from the governor, reduced his term to two years, forbade him to proclaim martial law or suspend the writ of *habeas corpus*, and abolished all registration laws: all these provisions being reflections of Reconstruction struggles. The people ratified the new constitution on the 13th of October 1874. After Reconstruction the state again became Democratic, and the main interest of its history has been the progress of economic development.

The following is a list of the territorial and state governors of Arkansas:—

Territorial.		
James Miller ¹	1819-1825	
George Izard	1825-1828	
John Pope ²	1829-1835	
William S. Fulton	1835-1836	
State.		
James S. Conway	1836-1840	Democrat
Archibald Yell ³	1840-1844	"
Thomas S. Drew ⁴	1844-1849	"
John S. Roane	1849-1852	"
Elias N. Conway	1852-1860	"
Henry M. Rector ⁵	1860-1862	"
Harris Flannigan ⁶	1862-1865	"
Isaac Murphy ⁷	1864-1868	Republican
C. H. Smith ⁸	1867-1868	"
Powell Clayton	1868-1871	"
Ozra A. Hadley ⁹	1871-1873	"
Elisha Baxter	1873-1874	"
August H. Garland	1874-1877	Democrat
William R. Miller	1877-1881	"
Thomas J. Churchill	1881-1883	"
James H. Berry	1883-1885	"
Simon P. Hughes	1885-1889	"
James P. Eagle	1889-1893	"

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peace, it was to be hoped that all cause for strife would have ceased; the vanquished rebels readmitted to representation on just terms and conditions, and we would thus be enabled to have a speedy return to our former greatness and prosperity.

But it does seem that those hopes are destined to be disappointed. For us there is no prosperity; for the South there is to be no peace. What it will end in it does not become me to predict. I may be mistaken, but I do think when the people come to examine the various laws which have been enacted to oppress an already down-trodden, impoverished, starving, and repentant people, they will once more rally round our flag and Constitution and recover the land from misrule.

I appeal to the conservative men of this House to unite with us in averting the calamities that will befall the nation in the event of the passage of this bill. It is our bounden duty as conscientious men, both with our voices and votes, to unite in arresting any legislation that looks to the avoidance of constitutional obligations.

Pass this bill and from this day henceforward we introduce that very element that was used to crush out the patriotic efforts and smother the pleas for justice of the founders of this Republic. By united effort tyranny and oppression were banished from the land, and it was hoped forever. It is now reintroduced in the most insidious manner, and almost without a word of objection on the part of those in power. One third of this Union is henceforward to be governed by five petty military tyrants, who exercise all the power of absolute despots, and this I say without the slightest disrespect to the patriotism or ability and loyalty of the very distinguished officers who will be selected to perform so unwelcome a task.

Two forms of government—the one military and despotic and the other republican—cannot exist long without engendering a fearful antagonism, and sooner or later one or the other must go to the wall. This may not be prophecy, but if experience is to be our guide to proclaim our conviction is the dictate of wisdom.

When in a republican land like this, at a time of profound peace, you by a single act strike from the Constitution that provision of our safety which declares that the military shall be subordinate to the civil power, you sound the death-knell of the Republic. That far-seeing statesman, Daniel Webster, in language more expressive than any I can employ, gave one expression to his views upon this subject, and prophesied that whenever we undertook to invert the constitutional order of our Government and remove its safeguards by substitution, such acts would be attended with the most fatal consequences to the future existence of the Republic.

It is not my intention to occupy a moment more of the valuable time of this House than shall be necessary to put my constituents and myself right upon the record in regard to this important measure.

I had intended to discuss the fifth section of this bill, but I deem the effort futile, however iniquitous it may be, since *per fas aut per nefas* its arbitrary requirements are sure to be enforced either by the bayonet or the bullet.

I grieve to contemplate the anomalous character of our legislation should that bill unfortunately become a law. My prediction is that as this military juggernaut shall be set in motion and crush its helpless victims their blood will arise to Heaven to rebuke you for the wrong you will have committed. I implore you to stay your hand, to abandon this system of mischievous legislation, for although I may not live to see the end, as sure as the sun makes its diurnal round I honestly believe convulsions and turmoil and strife will pervade the land from the center to its extreme limits. Business will be destroyed, the prosperity of

the country prostrated, our boasted superiority as a nation be scattered to the winds, freedom will no longer exist under the protection of law, licentiousness will assume its place, and our boasted republican liberty will become a by-word, a sneer, and a reproach.

Reconstruction.

SPEECH OF HON. N. G. TAYLOR,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

February 16, 1867.

The House being in Committee of the Whole on the President's annual message—

Mr. TAYLOR, of Tennessee, said:

Mr. CHAIRMAN: I believe that in Committee of the Whole House on the state of the Union—and the debate of this evening is as if in Committee of the Whole—the largest liberty of discussion is allowed; and I shall presume upon the indulgence of the House to-night perhaps to make the remarks I shall offer of a very discursive character. There are, Mr. Chairman, many points of interest to this House and to the country at large the consideration of any one of which might well consume an hour, and far more than an hour. There is some difficulty, therefore, in selecting the most prominent points of the most important questions and confining the discussion to them.

I would like, if time would permit, to glance over the entire political field and touch upon the prominent points in the history of the country for the last six or eight years. But the limited time allowed in debate requires that I shall touch only upon those matters deemed most important; and therefore upon this occasion I shall endeavor to circumscribe as far as possible the field of remark upon which I shall enter.

The great question of the day, it seems to me, Mr. Chairman, is, how are the States now severed in their practical relations to the Federal Government to be brought back into their normal relations to the Government, and when?

We have just ended a fearful war. That war grew out of an effort of a portion of the people of eleven States of this Union to throw off the authority of the Federal Government and to establish an independent government of their own. On their part it was begun and carried on to achieve a separation and an independent nationality. On our part it was prosecuted to prevent that result: to maintain the Constitution and to preserve the integrity of the Union. Well, sir, we succeeded in accomplishing the end we set out to achieve. They failed. Their armies were crushed; their navy destroyed; and their *quasi* governments, State and national, were annihilated utterly. We achieved the results we designed to achieve; we prevented separation and maintained the Union.

Now, sir, no one can deny that when the war began the Federal Government had the legal and constitutional right to jurisdiction over all the revolted States, and that that right continued unimpaired in every phase of the contest, and was never impaired, at all events never by our success. This right was perfect at the beginning, in the middle, and at the end of the struggle, and has remained perfect to this hour; and upon the sole ground that these States were States of the Union, subject to its jurisdiction, owing to its obligations, and entitled to its privileges.

Now, sir, the rebellion suspended the practical relations of those States with the Government; but as it did not destroy the rights of the nation or the obligations and privileges of these States, as soon as the rebellion closed all these in legal contemplation resume their *statu quo ante bellum*. And the question is now one of fact as to war or peace. As the

distinguished gentleman from Ohio [Mr. SHEL-LENGER] remarked in the course of his very ingenious argument the other day it is now a question of fact as to war or peace. What is the fact as to this matter? For the treatment of these States by the Federal Government must depend upon the relations they sustain to us in this respect. What is the real status, then, of these States? Are they at war with us? Where? In what manner? Is there any rebel army now existing? Is there any rebel navy floating upon the ocean and preying upon our commerce? Is there any armed organization of rebels anywhere within the territorial limits of these United States making war upon this Government? Is there any civil organization in this country holding itself in hostility to this Government? If so, where? As I glance over our territory I see the declaration officially made by the Secretary of State of the United States that peace is restored, verified. I ask you, sir, and I ask the country, whether we are not in relations of perfect and profound peace with every State and with every part of every State that was engaged in the rebellion. Our postal relations are resumed; our revenue is collected, and the governments of these several States have acknowledged and do acknowledge the acts of secession and rebellion which they perpetrated against this Government are null and void. They acknowledge allegiance to this Government. And they wait only the action of this Government as to the terms and conditions upon which they are to be permitted to enjoy the precious right of representation in Congress. The denial of which by the dominant majority is the only remaining obstacle to complete reunion.

Now, sir, I am one of those who believe our good and lamented former President had a just conception of the relation these States bore to the General Government during the war, and that he acted upon the right theory in reference to the proper mode of restoring them to the relations broken by the war. Did Mr. Lincoln ever propound the theory that these States had ceased to be States? Did he ever hold that they had been guilty of *felo de se* or suicide, or that the act of war had destroyed their condition as States? If so, when? In what terms did he express such an opinion? Whenever this great leader of the Union party wrote or spoke of the rebel sections he named them States although seceded and at war with the Government of the United States.

And, sir, this was also the theory recognized by every Congress that has assembled since the opening of the war. They have not only acknowledged it in words, but in numerous acts Congress has passed. Did Congress not provide for the apportionment of these States by name? Did you not receive into the Thirty-Seventh Congress members elected from the State of Tennessee after that State had passed into a hostile league with the confederacy, assuming to retire from the Union and allying herself to the southern cause? Was Tennessee as a State dead or annihilated and her Representatives still received on this floor after her death and burial? The league was consummated, I believe, in May, 1861. The election ratifying the separation of the State from the Union and its legislative transfer to rebel jurisdiction was had in June thereafter. Thus if secession and actual rebellion ever carried out of the Union or destroyed a State Tennessee was out or destroyed on the 8th of June, 1861, when, according to Governor Harris's official proclamation, the people voted for separation by fifty-six thousand majority.

Nevertheless, although confederate soldiers were stationed all through the State, although at some points they held the polls and our voters were compelled to march under confederate bayonets and banners to the ballot-box, on the 6th of August, 1861, under these circumstances, within the confederate lines, our mountain boys marched to the polls, "keep-

and quarrels over these perplexing questions, which probably should be committed to local governments.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator that allusions to the other House, especially of a disparaging character, are out of order.

Mr. HENDERSON. I was not aware that I spoke of the House of Representatives in a disparaging manner. I have a right to speak of the amendment that they sent here.

The PRESIDENT *pro tempore*. The Chair understood the Senator to speak of the House of Representatives as having been quarreling. The Chair considers such a remark as disparaging to the House and not in order.

Mr. HENDERSON. I of course must submit; but I certainly did not intend any reflection on the House of Representatives. I meant to say that there had been a contest between the two Houses and among members of the two Houses upon these points. I certainly have a right to express my opinion in regard to an amendment which the House has adopted and sent to us for action, and which is now pending.

Take, for instance, the State of Arkansas. From a third to a half of the people are and ever have been loyal to the Government. It is admitted that the present government there is in the hands of those who waged war against us. Instead of recognizing the further continuance of that government, which will carry the State further and further every day from restoration, would it not be better to assert the jurisdiction of Congress in the premises by setting up a loyal government and placing it in the hands of those who are friendly to the Union? As a military government is utterly incapable of administering justice, the proposed administration must be of a civil nature. The Governor and Legislature should be residents of the State, men of acknowledged patriotism and undoubted moral integrity and worth. Such men can be obtained in each seceded State. In these men the people would have confidence. Their administration of public affairs, founded upon justice and moderation, would soon silence all opposition and command the respect and approval of all well-disposed citizens. To them should be intrusted the entire machinery of State government. They should call conventions when necessary, order elections, fix the qualifications for office and regulate the elective franchise until the State could be admitted with a constitution settling these questions. They should be intrusted with full legislative power, with authority to appoint judicial and executive officers, to prescribe their duties, and to aid and assist them in the enforcement of the laws. Should it become necessary, the Legislative Council or the Governor should be authorized to call upon the United States for military protection against insurrection or domestic violence. Beyond this I would not extend the military arm in the seceded States.

When this is done, reconstruction is an accomplished fact. Until it is done, all is doubt and uncertainty. As a true friend of restoration, prompt, speedy, and effective—believing as I do that this is the only safe, certain, and constitutional mode of reconstruction, and convinced as I am that the best interests of every part of the nation imperatively demand the supremacy of the civil over the military power as a means of preserving peace and republican liberty, I can but regret that some plan of this sort has not been adopted.

I have not interfered with the subject simply because it could not be debated except upon propositions coming from the Reconstruction Committee. Any propositions offered stood committed to it without debate. But so thoroughly am I satisfied of the legality, expediency, and necessity of some such plan as this that I shall feel it my duty at the beginning of the next session to present it and urge it upon the consideration of Congress.

Reluctantly I come to the support of the pending measure, I may vote for it, but the

vote will not carry my assent. It has the consent of my party friends, who think, perhaps, it is better than nothing. In that opinion I scarcely concur. In its military features it is worse than nothing. It asserts the supremacy of Congress, but fails to enforce its power. Reconstruction is left dependent first upon the caprices of the South, and second upon the interests or whims of parties now represented here. It is a subject too important to be trifled with. True patriotism should be equally deaf to the complaints of usurpation from the South, and the dictates of prejudice or party success from the North. If the South must be taxed, it must be represented. If represented at all, it must be through its loyal men. The national Union must be preserved, and no man opposed to its preservation must ask to exercise power as a means to carry out his opposition. The national faith is pledged to protect the liberties of the black man, and no schemes to violate that faith should be tolerated. The national honor is pledged to its defenders in the field and also to its honest creditors. This honor must not be tarnished. A great war has been closed in a great civil revolution, the responsibilities and duties of which must be accepted in good faith. The past must soon be forgotten, and men must prepare themselves for the future. That future can be made prosperous and happy. It needs only that prejudice be discarded. The spirit of vengeance must not be cherished. The promptings of avarice must be expelled and the true principles of republican government enforced, whatever may become of politicians or their schemes.

Mr. FESSENDEN. I wish simply to call the attention of the Senate to the fact that we shall probably be obliged, from the pressure of business and the little time that is left to us, to sit here every night; and as there is, of course, no disposition to protract this debate merely for the sake of protracting it, and as every gentleman's mind is unquestionably made up, I cannot help suggesting to our friends that we be allowed to take the question now, in order that we may have some rest to prepare ourselves for the nights when we must sit late in order to finish the business.

Mr. DOOLITTLE. I only wish to say to my honorable friend from Missouri [Mr. HENDERSON] that he has altogether mistaken me; that although I may have spoken in the heat of the moment very earnestly, I had not the slightest feeling toward him personally. I was simply speaking of the ideas that were passing between him and myself. Toward him, certainly, I have never entertained anything but the kindest feelings of personal regard.

Mr. DAVIS. The honorable Senator from Missouri just before he took his seat assumed the position that Louisiana and the other States of the South were still States, but without governments. If they are States, I ask the honorable Senator from whence he derives the power to Congress to make governments for them? I intended to put that question to the honorable Senator from Wisconsin, [Mr. Howe,] who made a speech this afternoon before the recess. He stated that he had no more doubt of the power of Congress to pass the measure under consideration than he had of its power to levy taxes. If that honorable Senator were in his seat I would ask him whence he derives that power to Congress? I desire to have the Senator from Missouri answer the same question. While he was speaking the Senator from Illinois [Mr. TRUMBULL] handed him the Constitution, and directed him to some clauses in it. Now, I ask either of those gentlemen or any gentleman here to read to the Senate the clause of the Constitution that vests any power in Congress to pass this measure.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin [Mr. DOOLITTLE] to the amendment of the House of Representatives.

Mr. DOOLITTLE. Before the vote is taken I will state to the Senate that in consequence of the temporary illness of the Senator from

Iowa [Mr. GRIMES] I have agreed to pair off with him, and shall therefore withhold my vote.

The question being taken by yeas and nays, resulted—yeas 8, nays 33; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Hendricks, Johnson, Nesmith, Patterson, and Saulsbury—8.

NAYS—Messrs. Brown, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Wade, Willey, Williams, Wilson, and Yates—33.

ABSENT—Messrs. Anthony, Dixon, Doolittle, Grimes, Guthrie, McDougall, Norton, Nye, Riddle, Sprague, and Van Winkle—11.

So the amendment to the amendment was rejected.

Mr. WILSON. I desire to offer an amendment, but if it is objected to on this side of the Chamber I shall not press it. It is to add to the sixth section of the House amendment the following words:

And all offices now held under the assumed authority of the rebel State governments shall be vacated within ninety days after the passage of this act; and it shall be the duty of the commanding officer of each military district to enforce this provision.

The amendment to the amendment was rejected.

Mr. WILSON. I do not desire to press my amendment against the wishes of our friends on this side; but I believe it is our duty to do what it proposes in some other form and in some other bill if not on this.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made by the House of Representatives.

Mr. EDMUNDS. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. DOOLITTLE, (when his name was called.) On this question I have paired off with the honorable Senator from Iowa, who if he were present would vote for concurrence, and I should vote against it.

Mr. JOHNSON, (when his name was called.) I desire to inquire of the Chair whether a vote of concurrence in the amendments of the House has the effect of passing the bill at once?

The PRESIDENT *pro tempore*. It has.

Mr. JOHNSON. Then I vote "yea."

The call of the roll having been completed, the result was announced—yeas 35, nays 7, as follows:

YEAS—Messrs. Brown, Cattell, Chandler, Conness, Cragin, Creswell, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Harris, Henderson, Howard, Howe, Johnson, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—35.

NAYS—Messrs. Buckalew, Cowan, Davis, Hendricks, Nesmith, Patterson, and Saulsbury—7.

ABSENT—Messrs. Anthony, Dixon, Doolittle, Grimes, Guthrie, McDougall, Norton, Nye, Riddle, and Sprague—10.

So the House amendments were concurred in.

ORDER OF BUSINESS.

Mr. SUMNER. I now move that we proceed to the consideration of Senate joint resolution No. 164, relative to the Paris Exposition, in order that it may be the regular business for to-morrow at one o'clock.

The PRESIDENT *pro tempore*. It will require a different motion to effect the Senator's purpose, as there is a bill now before the Senate which was laid aside informally for action on the measure just disposed of.

Mr. POLAND. I desire to move that the Senate hold an evening session to-morrow, commencing at half past seven o'clock p. m., to enable us to complete business from the Patent Committee.

Mr. WILLIAMS. Let us settle that to-morrow.

Mr. TRUMBULL. I move that the Senate do now adjourn.

The motion was agreed to; and (at ten o'clock and forty-seven minutes p. m.) the Senate adjourned.

436 Pa. 65 (1969)

Shankey v. Staisey et al., Appellants.

Supreme Court of Pennsylvania.

Argued September 30, 1969.

October 2, 1969.

As to the first classification created by Section 1405, there appears to be a reasonable basis for the legislature's action. What this Court must consider is both the right of the elector to vote for the candidate of his choice and the right of a candidate to have his name appear on the ballot. By providing for write-in votes, the Election Code gives every elector the right to vote for whomever he chooses. The right of a candidate to have his name on the ballot is not such an absolute one, however, because there is a competing interest at stake the avoidance of an unduly complicated ballot which may confuse the voter and make impossible the use of voting machines. The legislature has taken this interest into account by creating a two-tier system a candidate must satisfy before his name may appear on the ballot. First, his party must become a legal state *71 or county party under the requirements of the Act of June 3, 1937, P.L. 1333, Art. VIII, § 801, as amended by the Act of July 28, 1941, P.L. 526, § 1 (25 P.S. § 2831). Then the individual must show a minimum of public support either through a nomination petition (§ 912) or through the votes received at the primary (§ 1405). The legislature felt that a candidate should have to show at least this much public support before he deserved a spot on the ballot.

THE FIRST LEGAL SYSTEM: (1176) TO 1348

Richard I
John
Henry III
Edward I
Edward II
Edward III (to 1348)

All Mans Laws:

LEGAL SYSTEM

THE SECOND LEGAL SYSTEM: 1348 TO 1529

Edward III (from 1348)
Richard II
Henry IV
Henry V
Henry VI
Edward IV
Edward V
Richard III
Henry VII
Henry VIII (to 1529)

THE THIRD LEGAL SYSTEM: 1529 TO 1649

Henry VIII (from 1529)
Edward VI
Mary
Philip and Mary
Elizabeth
James I
Charles I

THE FOURTH LEGAL SYSTEM

The Commonwealth
Charles II
James II
William and Mary
Anne
George I
George II
George III
George IV
William IV
Victoria

These digitized in

jur. 3, as to DISTRICTS for the King's debt.

DISTRICT, *districus*.] A territory, or place of jurisdiction; the circuit wherein a man may be compelled to appear; also the place in which one hath the power of distraining: and where we say *bors de son fee*, out of the fee, it has been used for *extra districtum suum*. *Brit. c. 120.*

DISTRINGAS, A writ directed to the Sheriff, or other officer commanding him to *distrain* a man for a debt

A singular contradiction is apparent here. Congress declares these local State governments to be illegal governments, and then provides that these illegal governments shall be carried on by federal officers, who are to perform the very duties imposed on its own officers by this illegal State authority. It certainly would be a novel spectacle if Congress should attempt to carry on a legal State government by the agency of its own officers. It is yet more strange that Congress attempts to sustain and carry on an illegal State government by the same federal agency.

In this connection I must call attention to the 10th and 11th sections of the bill, which provide that none of the officers or appointees of these military commanders "shall be bound in his action by any opinion of any civil officer of the United States;" and that all the provisions of the act "shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out."

It seems Congress supposed that this bill might require construction, and they fix, therefore, the rule to be applied. But where is the construction to come from? Certainly no one can be more in want of instruction than a soldier or an officer of the army detailed for a civil service, perhaps the most important in a State, with the duties of which he is altogether unfamiliar. This bill says he shall not be bound in his action by the opinion of any civil officer of the United States. The duties of the office are altogether civil, but when he asks for an opinion he can only ask the opinion of another military officer, who, perhaps, understands as little of his duties as he does himself; and as to his "action," he is answerable to the military authority, and to the military authority alone. Strictly, no opinion of any civil officer other than a judge has a binding force.

But these military appointees would not be bound even by a judicial opinion. They might very well say, even when their action is in conflict with the Supreme Court of the United States, "That court is composed of civil officers of the United States, and we are not bound to conform our action to any opinion of any such authority."

This bill and the acts to which it is supplementary are all founded upon the assumption that these ten communities are not States, and that their existing governments are not legal. Throughout the legislation upon this subject they are called "rebel States," and in this particular bill they are denominated "so-called States," and the vice of illegality is declared to pervade all of them. The obligations of consistency bind a legislative body as well as the individuals who compose it. It is now too late to say that these ten political communities are not States of this Union. Declarations to the contrary made in these three acts are contradicted again and again by repeated acts of legislation enacted by Congress from the year 1861 to the year 1867.

During that period, while these States were in actual rebellion, and after that rebellion was brought to a close, they have been again and again recognized as States of the Union. Representation has been apportioned to them as States. They have been divided into judicial districts for the holding of district and circuit courts of the United States, as States of the Union only can be districted. The last act on this subject was passed July 23, 1866, by which every one of these ten States was arranged into districts and circuits.

They have been called upon by Congress to act through their legislatures upon at least two amendments to the Constitution of the United States. As States they have ratified one amendment, which required the vote of twenty-seven States of the thirty-six then composing the Union. When the requisite twenty-seven votes were given in favor of that amendment—seven of which votes were given by seven of these ten States—it was proclaimed to be a part of the Constitution of the United States, and slavery was declared no longer to exist within the United States or any place subject to their jurisdiction. If these seven States were not legal States of the Union, it follows as an inevitable con-

IN THE SENATE OF THE UNITED STATES.

MARCH 6, 1867.

Mr. SUMNER asked, and by unanimous consent obtained, leave to bring in the following bill ; which was read twice and ordered to be printed.

A BILL

To guarantee a republican form of government in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, and to provide for the restoration of these States to practical relations with the Union.

Whereas, in the years eighteen hundred and sixty and eighteen hundred and sixty-one, the inhabitants of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas changed their respective constitutions so as to make them repugnant to the Constitution of the United States ; and whereas the inhabitants of these States made war upon the United States, and after many battles finally surrendered, under the rules and usages of war ; and whereas the inhabitants of these States, at the time of their surrender, were without legal State governments, and, as a rebel population, were without authority to form legal State governments, or to exercise any other political functions belonging to loyal citizens, and they must so continue until relieved of such disabilities by the law-making power of the United States ; and whereas it belongs to Congress, in the discharge of its duties under the Constitution,

quirements of every living thing; with a population of forty millions of free people, all speaking one language; with facilities for every mortal to acquire an education; with institutions closing to none the avenues to fame or any blessing of fortune that may be coveted; with freedom of the pulpit, the press, and the school; with a revenue flowing into the national treasury beyond the requirements of the government. Happily, harmony is being rapidly restored within our own borders. Manufactures hitherto unknown in our country are springing up in all sections, producing a degree of national independence unequalled by that of any other power.

These blessings and countless others are intrusted to your care and mine for safe-keeping, for the brief period of our tenure of office. In a short time we must, each of us, return to the ranks of the people who have conferred upon us our honors, and account to them for our stewardship. I earnestly desire that neither you nor I may be condemned by a free and enlightened constituency, nor by our own consciences.

Emerging from a rebellion of gigantic magnitude, aided as it was by the sympathies and assistance of nations with which we were at peace, eleven States of the Union were, four years ago, left without legal State governments. A national debt had been contracted; American commerce was almost driven from the seas; the industry of one-half of the country had been taken from the control of the capitalist and placed where all labor rightfully belongs—in the keeping of the laborer. The work of restoring State governments loyal to the Union, of protecting and fostering free labor, and providing means for paying the interest on the public debt, has received ample attention from Congress. Although your efforts have not met with the success in all particulars that might have been desired, yet, on the whole, they have been more successful than could have been reasonably anticipated.

Seven States which passed ordinances of secession have been fully restored to their places in the Union. The eighth, Georgia, held an election at which she ratified her constitution, republican in form, elected a governor, members of Congress, a State legislature, and all other officers required. The governor was duly installed, and the legislature met and performed all the acts then required of them by the reconstruction acts of Congress. Subsequently, however, in violation of the constitution which they had just ratified, (as since decided by the supreme court of the State,) they unseated the colored members of the legislature and admitted to seats some members who are disqualified by the third clause of the fourteenth amendment to the Constitution, an article which they themselves had contributed to ratify. Under these circumstances, I would submit to you whether it would not be wise, without delay, to enact a law authorizing the governor of Georgia to convene the mem-

portion of the tithes or profits of the living.
Cowel.

POSITIVE. Has some technical uses.

Positive condition. When the result is made dependent on something to happen, the condition is called positive, in distinction from one made to depend on a thing's not happening, called a negative condition. See *Bouvier*. Affirmative would designate this class of conditions more accurately and appropriately than positive does.

Positive law. A rule established by authority, as distinguished from one founded on natural reason or ethical considerations; express or enacted law: a statutory rule.

Positive proof. Convincing evidence. If "proof" were used, as Greenleaf recommends, in the sense of the effect of evidence, the mental conviction induced by evidence, instead of being sometimes employed as an equivalent of "evidence," there would be little or no need of the expression positive proof.

POSSE. To be able; to be possible. This Latin verb is, in law Latin, used as a substantive, with the signification of possibility. Thus a thing is said to be in *posse* which may possibly be; as distinguished from a thing in actual existence, said to be in *esse*.

Posse comitatus. The power of the county. The force of his county, which a sheriff may call to his aid in the execution of process; including, generally, the entire male population over fifteen years of age, of sound body and mind.

In English law, the *posse comitatus* is that force of the people of the county which the sheriff may command to attend him for keeping of the peace and pursuing felons; also for defending the county against the king's enemies. All persons, except peers, women, clergymen, persons decrepit, and infants under the age of fifteen, are, by Stat. 2 Hen. V. ch. 8, 1414, bound to attend this summons, under pain of fine and imprisonment. (1 *Bl. Com.* 343; 4 *Id.* 122; 2 *Steph. Com.* 629; 4 *Id.* 254.) *Mozley & W.*

POSSESSIO. 1. In the civil law. That condition of fact under which one can exercise his power over a corporeal thing at his pleasure, to the exclusion of all others. This condition of fact is called detention, and it forms the substance of possession in all its varieties.

1 *Mackeld. Civ. Law*, 234, § 229. See *Burrill*.

Possessio, in its primary sense, is the condition or power by virtue of which a man has such a mastery over a corporeal thing as to deal with it at his pleasure, and to exclude other persons from meddling with it. This condition or power is detention; and it lies at the bottom of all legal senses of the word possession. This possession is no **legal state** or condition, but it may be the source of rights; and it then becomes *possessio*, in a juristical or legal sense. Still, even in this sense, it is not in any way to be confounded with property (*proprietas*). A man may have the juristical possession of a thing without being the proprietor, and a man may be the proprietor of a thing without having the juristical possession of it, and consequently without having the detention of it. (*Dig.* 41, tit. 2, § 12.) Ownership is the legal capacity to operate on a thing according to a man's pleasure, and to exclude everybody else from doing so. Possession, in the sense of detention, is the actual exercise of such a power as the owner has a right to exercise. The term *possessio* occurs in the Roman jurists in various senses. There is *possessio* simply, and *possessio civilis* and *possessio naturalis*. *Possessio* denoted, originally, bare detention. But this detention, under certain conditions, becomes a **legal state**, inasmuch as it leads to ownership, through *usucapio*. Accordingly, the word *possessio*, which required no qualification so long as there was no other notion attached to *possessio*, requires such qualification when detention becomes a **legal state**. This detention, then, when it has the conditions necessary to *usucapio*, is called *possessio civilis*; and all other *possessio* as opposed to *civilis* is *naturalis*. (*Smith Dict. of Antiq.*; *Sand. Just.* 274.) *Wharton*.

2. In the common law. Possession, seisin, used especially of lands.

Bracton treats *possessio* and *seisina* as synonymous, and considers possession under a multitude of subdivisions; as civil, which was retained only by intention; natural, which was held only by the physical act; rightful and wrongful; true, and imaginary or fictitious; naked, where a person had no right, but only a mere foothold or standing; clothed, as with right, title, or prescription; and many others. There was also one kind which consisted of some degree of possession, but no right, as the possession of a guardian or creditor; another kind, which consisted of a good deal of possession and a little right, as the possession of an ancestor who died seised, another having the mere right; another kind, which consisted of a great deal of possession and some right, as where one held land for a term by the grant of a person who demised it to him, but did not die seised; and a fourth kind, consisting of much possession and much right, as where one had the mere right in s

LOYALTY. Adherence to law. Faithfulness to one's prince or sovereign or to the existing government.

Lubricum linguæ non facile trahendum est in pœnam. Cro. Car. 117. A slip of the tongue ought not lightly to be subjected to punishment.

LUCID INTERVALS. In medical jurisprudence. Intervals occurring in the mental life of an insane person during which he is completely restored to the use of his reason, or so far restored that he has sufficient intelligence, judgment, and will to enter into contractual relations, or perform other legal acts, without disqualification by reason of his disease.

LUCRATIVA CAUSA. Lat. In Roman law. A consideration which is voluntary; that is to say, a gratuitous gift, or such like. It was opposed to *onerosa causa*, which denoted a valuable consideration. It was a principle of the Roman law that two lucrative causes could not concur in the same person as regarded the same thing; that is to say, that, when the same thing was bequeathed to a person by two different testators, he could not have the thing (or its value) twice over. Brown.

LUCRATIVA USUCAPIO. Lat. This species of *usucapio* was permitted in Roman law only in the case of persons taking possession of property upon the decease of its late owner, and in exclusion or deforcement of the heir, whence it was called "*usucapio pro hærede*." The adjective "*lucrativa*" denoted that property was acquired by this *usucapio* without any consideration or payment for it by way of purchase; and, as the possessor who so acquired the property was a *malafide* possessor, his acquisition, or *usucapio*, was called also "*improba*," (*i. e.* dishonest; but this dishonesty was tolerated (until abolished by Hadrian) as an incentive to force the *hæres* to take possession, in order that the debts might be paid and the sacrifices performed; and, as a further incentive to the *hæres*, this *usucapio* was complete in one year. Brown.

LUCRATIVE SUCCESSION. In Scotch law. A kind of passivetitle by which a person accepting from another, without any onerous cause, (or without paying value,) a disposition of any part of his heritage, to which the receiver would have succeeded as heir, is liable to all the grantor's debts contracted before the said disposition. 1 Forb. Inst. pt. 3, p. 102.

LUCRATUS. In Scotch law. A gainer.

LUCRE. Gain in money or goods; profit; usually in an ill sense, or with the sense of something base or unworthy. Webster.

LUCRI CAUSA. Lat. In criminal law. A term descriptive of the intent with which property is taken in cases of larceny, the phrase meaning "for the sake of lucre" or gain.

LUCRUM CESSANS. Lat. In Scotch law. A ceasing gain, as distinguished from *damnum datum*, an actual loss.

Lucrum facere ex pupilli tutela tutor non debet. A guardian ought not to make money out of the guardianship of his ward. 1 Johns. Ch. 527, 535.

LUCTUOSA HÆREDITAS. A mournful inheritance. See *HÆREDITAS LUCTUOSA*.

LUCTUS. In Roman law. Mourning. See *ANNUS LUCTUS*.

LUGGAGE. Luggage may consist of any articles intended for the use of a passenger while traveling, or for his personal equipment. Civil Code Cal. § 2181.

This term is synonymous with "baggage," but is more commonly used in England than in America.

LUMEN. In the civil law. Light; the light of the sun or sky; the privilege of receiving light into a house.

A light or window.

LUMINA. In the civil law. Lights; windows; openings to obtain light for one's building.

LUMINARE. A lamp or candle set burning on the altar of any church or chapel, for the maintenance whereof lands and rent-charges were frequently given to parish churches, etc. Kennett, Gloss.

LUNACY. Lunacy is that condition or habit in which the mind is directed by the will, but is wholly or partially misguided or erroneously governed by it; or it is the impairment of any one or more of the faculties of the mind, accompanied with or inducing a defect in the comparing faculty. 1 Bland, 386.

"Lunacy" means either (1) the condition or status of a lunatic, (*q. v.*) or (2) judicial proceedings taken before the proper court or officer for the purpose of making inquiry into the state of mind of persons alleged to be lunatics, of taking charge of them and their property if they are found to be lunatics, and for removing the restraint on their restoration to sanity. Sweet.

Mr. William Moore	Mr. Hiram Price	Mr. H. H. Starkweather	Mr. Cadwal'r C. Washburn
James K. Moorhead	Samuel J. Randall	Thaddeus Stevens	Henry D. Washburn
Leonard Myers	Green B. Raum	Stephen Taber	William B. Washburn
Carman A. Newcomb	William H. Robertson	John Taffe	Martin Welker
Charles O'Neill	Philetus Sawyer	Caleb N. Taylor	Thomas Williams
Godlove S. Orth	Robert C. Schenck	Francis Thomas	William Williams
Halbert E. Paine	Glenn W. Scofield	Row'd E. Trowbridge	James F. Wilson
Sidney Perham	Lewis Selye	Ginery Twicbell	John T. Wilson
John A. Peters	John P. C. Shanks	Charles Upson	Stephen F. Wilson
William A. Pile	Samuel Shellabarger	Burt Van Horn	William Windom
Tobias A. Plants	Worthington C. Smith	Robert T. Van Horn	Fred'k E. Woodbridge.
Daniel Polsley	Rufus P. Spalding	Hamilton Ward	

Those who voted in the negative are—

Mr. George M. Adams	Mr. John W. Chanler	Mr. Richard D. Hubbard	Mr. Lewis W. Ross
Stevenson Archer	Charles A. Eldridge	Samuel S. Marshall	Charles Sitgreaves
Demas Barnes	John Fox	William Mungen	Daniel M. Van Auken
Benjamin M. Boyer	J. Lawrence Geitz	William E. Niblack	Philadelph Van Trump
Albert G. Burr	Charles Haight	William E. Robinson	Fernando Wood.

Those not voting are—

Mr. Delos R. Ashley	Mr. Thomas D. Elliot	Mr. Addison H. Laffin	Mr. Charles E. Phelps
Nathaniel P. Banks	John F. Farnsworth	William S. Lincoln	Frederick A. Pike
William H. Barnum	William C. Fields	Rufus Mallory	Luke P. Poland
James G. Blaine	James A. Garfield	Dennis McCarthy	Theodore M. Pomeroy
James Brooks	Adam J. Glossbrenner	Joseph W. McClurg	John V. L. Pruyn
Benjamin F. Butler	Abner C. Harding	Hiram McCullough	Aaron F. Stevens
Henry L. Cake	John Hill	George W. Morgan	Thomas E. Stewart
John Coburn	Julius Hotchkiss	Daniel J. Morrell	Frederick Stone
Grenville M. Dodge	Calvin T. Hulburd	John Morrissey	Henry Van Aernam
Ephraim R. Eckley	Michael C. Kerr	John A. Nicholson	Charles H. Van Wyck.
Benjamin Eggleston	Bethuel M. Kitchen	Thomas E. Noell	

So the resolution was agreed to.

The preamble was then agreed to.

Mr. Cadwalader C. Washburn moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table ; which latter motion was agreed to.

Mr. Thaddeus Stevens, from the committee of conference on the disagreeing votes of the two houses on the bill of the House (H. R. 123) supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, submitted the following report, viz :

"The committee of conference on the disagreeing votes of the two houses on the amendments of the House to the amendment of the Senate to the bill of the House (H. R. 123) supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective houses as follows :

"That the Senate agree to the first amendment of the House, with the following amendments :

"In line 10, strike out the word 'illegal,' and in lieu thereof insert not legal State governments ;

POSTERIORITY. Being or coming after. It is a word of comparison, the correlative of which is *priority*: as, when a man holds lands from two landlords, he holds from his ancient landlord by priority, and from the other by posteriority. Co. 2d Inst. 392.

These terms, priority and posteriority, are also used in cases of liens: the first are prior liens, and are to be paid in the first place; the last are posterior liens, and are not entitled to payment until the former have been satisfied.

POSTERITY. All the descendants of a person in a direct line to the remotest generation. Breckinridge v. Denny, 8 Bush. (Ky.) 527.

POSTHUMOUS CHILD. One born after the death of its father; or, when the Cæsarean operation is performed, after that of the mother. The doctrine is universally adopted throughout the United States, that posthumous children inherit in the same manner as if born during the father's life; and this relates back to the conception of the child, if it is born alive; 3 Washb. R. P. *412; Jenkins v. Freyer, 4 Paige (N. Y.) 52; Barker v. Pearce, 30 Pa. 173, 72 Am. Dec. 691. The court will allow a longer time than nine months for the birth of the child, when the opinion of physicians, or circumstances warrant it; 2 Greenl. Cruise, R. P. 140.

When a father makes a will without providing for a posthumous child, the will is generally considered as revoked *pro tanto*; 3 Washb. R. P. 699, 412; 4 Kent 412, 521, 525; Shotts v. Poe, 47 Md. 513, 28 Am. Rep. 486; Wilson v. Ott, 160 Pa. 433, 28 Atl. 848; where it is governed by statute.

In most of the states there are statutes providing that in case of future estates or remainders limited to heirs, issue, or children of any person, posthumous children take as if living at the death of the parent without the limitation of an estate to support contingent remainders; and most of such statutes also provide that the future estate limited to take effect on the death of a person without heirs, etc., is defeated by the birth of a posthumous child. In a few states the time within which such child must be born is limited to ten months after the death of the father. See Belton v. Summer, 31 Fla. 139, 12 South. 371, 21 L. R. A. 146; LEGACY; EN VENTRE SA MÈRE.

POSTLIMINIUM (Lat. from *post*, after, and *limen*, threshold). A fiction of the civil law, by which persons or things taken by the enemy were restored to their former status on coming again under the power of the nation to which they formerly belonged. Calvinus, Lex.; 1 Kent 108. It is also recognized by the law of nations. But movables are not entitled to the benefit of this rule, by strict law of nations, unless promptly recaptured. If recaptured after twenty-four hours they vest in the recaptor, subject, amongst most

nations, to revert in the owner, upon payment of military salvage; Risley, Law of War 143.

The rule does not affect property which is brought into a neutral territory; 1 Kent 108. It is so called from the return of the person or thing over the threshold or boundary of the country from which it was taken.

When an enemy's military occupation comes to an end, the legal state of things previously existing is deemed to have been in continuous existence during the occupation. Postliminium applies to territory, to private immovable property, and to every kind of property that may not lawfully be seized. But property, public or private, that has been lawfully taken by an enemy, is not subject to the fiction. Acts done once and for all, within an invader's competence to perform, hold good. There is no postliminium as regards lawful prize, though it is said there may be by recapture; which, if it occur before capture is complete, may have effects like those of postliminium, though the latter fiction does not include any idea of salvage; Risley, Law of War 143.

The *jus postliminii* in international law is derived from a similar term in the Roman law by which persons and property captured by an enemy and then recaptured are restored to their original owner. The term now applies almost exclusively to property both real and personal which when recaptured does not belong to the recaptor but to the original owner. Snow, Int. Law 116.

It is important to observe the distinction between the effects of *postliminium* according to municipal law and those according to international law. Municipal law determines the conditions upon which private property shall revert to its former owners when it is brought again within the power of the state of which its former owners are citizens. International law determines the general international status of territory, persons and property which, having been under the control of the enemy, come again under the control of their original sovereign. II Opp. §§ 279-284.

POSTLIMINY. See POSTLIMINIUM.

POSTMAN. A senior barrister in the court of exchequer, who has precedence in motions; so called from place where he sits. 2 Bla. Com. 28; Wharton, Dict. A letter-carrier. Webster, Dict.

POSTMASTER. An officer who keeps a postoffice, attending to the receipt, forwarding, and delivery of letters and other matter passing through the mail.

Postmasters must reside within the delivery district for which they are appointed. For those offices where the salary or compensation is less than a thousand dollars a year, the postmaster-general appoints; where it is more, the president. Postmasters are divided into four classes, exclusive of the

of soldiers to ask for the cause of arrest, or for the production of the warrant? Of what avail to ask for the privilege of bail when in military custody, which knows no such thing as bail? Of what avail to demand a trial by jury, process for witnesses, a copy of the indictment, the privilege of counsel, or that greater privilege, the writ of *habeas corpus*?

The veto of the original bill of the 2d of March was based on two distinct grounds, the interference of Congress in matters strictly appertaining to the reserved powers of the States, and the establishment of military tribunals for the trial of citizens in time of peace. The impartial reader of that message will understand that all that it contains with respect to military despotism and martial law has reference especially to the fearful power conferred on the district commanders to displace the criminal courts and assume jurisdiction to try and to punish by military boards; that, potentially, the suspension of the *habeas corpus* was martial law and military despotism. The act now before me not only declares that the intent was to confer such military authority, but also to confer unlimited military authority over all the other courts of the State, and over all the officers of the State, legislative, executive, and judicial. Not content with the general grant of power, Congress, in the second section of this bill, specifically gives to each military commander the power "to suspend or remove from office, or from the performance of official duties, and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district, under any power, election, appointment, or authority derived from, or granted by, or claimed under, any so-called State, or the government thereof, or any municipal or other division thereof."

to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867," returned by the President of the United States to the House of Representatives, in which it originated, with his objections, and passed by the House of Representatives on a reconsideration of the same.

The message of the President of the United States returning the said bill to the House of Representatives having been read as follows :

To the House of Representatives of the United States :

I return herewith the bill entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the 2d day of March, 1867, and the act supplementary thereto, passed on the 23d day of March, 1867," and will state as briefly as possible some of the reasons which prevent me from giving it my approval.

This is one of a series of measures passed by Congress during the last four months on the subject of reconstruction. The message returning the act of the 2d of March last, states at length my objections to the passage of that measure. They apply equally well to the bill now before me, and I am content merely to refer to them and to reiterate my conviction that they are sound and unanswerable.

There are some points peculiar to this bill, which I will proceed at once to consider.

The first section purports to declare "the true intent and meaning," in some particulars, of the two prior acts upon this subject.

It is declared that the intent of those acts was, first, that the existing governments in the ten "rebel States" "were not legal State governments;" and, second, "that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress."

Congress may, by a declaratory act, fix upon a prior act a construction altogether at variance with its apparent meaning, and from the time, at least, when such a construction is fixed, the original act will be construed to mean exactly what it is stated to mean by the declaratory statute. There will be, then, from the time this bill may become a law, no doubt, no question, as to the relation in which the "existing governments" in those States, called in the original act "the provisional governments," stand toward the military authority. As those relations stood before the declaratory act, these "governments," it is true, were made subject to absolute military authority in many important respects, but not in all, the language of the act being, "subject to the military authority of the United States, as hereinafter prescribed." By the sixth section of the original act these governments were made, "in all respects, subject to the paramount authority of the United States."

Now, by this declaratory act, it appears that Congress did not by the original act intend to limit the military authority to any particulars or subjects therein "prescribed," but meant to make it universal. Thus, over all of these ten States this military government is now declared to have unlimited authority. It is no longer confined to the preservation of the public peace, the administration of criminal law, the registration of voters, and the superintendence of elections, but "in all respects" is asserted to be paramount to the existing civil governments.

It is impossible to conceive any state of society more intolerable than this; and yet it is to this condition that twelve millions of American citizens are reduced by the Congress of the United States. Over every foot of the immense territory occupied by these American citizens, the Constitution of the United States is theoretically in full operation. It binds all the people there and should protect them; yet they are denied every one of its sacred guarantees.

Of what avail will it be to any one of these southern people when seized by a file

legal state

§ 7. Before the year 1800, the seat of government was not permanently fixed at any place ; and, being moved as it was from place to place, the public suffered great inconvenience. It had been temporarily established at the following places, at the following dates :—

Philadelphia, Sept. 5, 1774.

Philadelphia, May 10, 1775.

Baltimore, Dec. 20, 1776.

Philadelphia, March 4, 1777.

Lancaster, Penn., Sept. 27, 1777.

York, Penn., Sept. 30, 1777.

Philadelphia, July 2, 1778.

Princeton, June 30, 1783.

Annapolis, Md., Nov. 26, 1783.

Trenton, N. J., Nov. 1, 1784.

New York, Jan. 11, 1785.

3.—PUBLIC WORKS.

§ 8. If the National Government needs a site for the erection of a fort, magazine, arsenal, dock-yard, or any other building, there are two steps necessary to procure it : first, the consent of Congress ; and, second, the consent of the legislature of the State in which the proposed site is. When the cession is made, the government comes into full possession ; and now Congress may exercise over such place exclusive legislation.

§ 9. Unless the State of which such purchase is made reserves the right, no **legal State** authority can be exercised in such places, even to the serving of writs of any kind, civil or criminal. All judicial jurisdiction in such cases is national. If crimes are committed in such places, they must be tried in the United-States courts. Judge Story says, however, that the States have generally reserved in such cessions the right to serve all State processes, civil and criminal, upon persons found therein.

§ 10. The object of such reservations when they are made is, that these places shall not become retreats and asylums for fugitives from justice who may be guilty of crimes against State authority.

286.

The country accepted the act, and there were those who thought this enough. But Congress, adopting the view that further amendments were necessary; and, either holding that the ratification of three-fourths of all the States was required; or else wishing to test the fact, that these States so lately in rebellion, had given evidence of loyalty and submission, and claiming for Congress the power to impose further conditions than the President had demanded, with a view to secure liberty and equal political rights to all, and to compel those States to ratify the amendment, enacted the following series of laws:—

Act of
March 2,
1867.

"An Act to provide for the more efficient Government of the Rebel States."

Preamble?

"WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States, until loyal and republican State governments can be legally established; therefore,

How are
certain rebel
States to be
divided,
and subject-
ed to
military
authority?

"Be it enacted, &c., That said rebel States shall be divided into military districts, and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina, the second district; Georgia, Alabama, and Florida, the third district; Mississippi and Arkansas, the fourth district; and Louisiana and Texas, the fifth district.

Is the
President
to assign an
army officer
to command
each dis-
trict?
Military
force to be
detailed?
What are
the duties
of command-
ers of
districts?
Local civil
tribunals?
State inter-
ference de-
clared null?

"2. It shall be the duty of the President to assign to the command of each of said districts, an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties, and enforce his authority within the district to which he is assigned.

Persons
under
military
arrest to be
speedily
tried?
What rule
of punish-
ment?
How are
sentences of
military
tribunals to
be executed?

"3. It shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority with the exercise of military authority under this act, shall be null and void.

"4. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

- Ballot.** during the operation of said act, be by ballot: and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed by the act approved July second, eighteen hundred and sixty-two, entitled 'An act to prescribe an oath of office:' *Provided*, That if any person shall knowingly and falsely take and subscribe any oath in this act prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.
- What is the penalty of false swearing?** "7. All expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made, by them, under or by virtue of this act, shall be paid out of any moneys in the treasury not otherwise appropriated.
- How are the expenses to be paid?** "8. The convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purposes of this act not herein otherwise provided for and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.
- How are the salaries &c., to be paid?** "9. The word 'article,' in the sixth section of the act to which this is supplementary, shall be construed to mean 'section.'"
- Passed over the President's veto, March 23, 1867.

Act of July 18, 1867. "AN ACT supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed on the second day of March, eighteen hundred and sixty-seven, and the act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven.

What are the governments of the States declared to be? "*Be it enacted, &c.*, That it is hereby declared to have been the true intent and meaning of the act of the second day of March, one thousand eight hundred and sixty-seven, entitled 'An act to provide for the more efficient government of the rebel States,' and of the act supplementary thereto, passed on the twenty-third day of March, in the year one thousand eight hundred and sixty-seven, that the governments then existing in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were not **legal State** governments; and that thereafter said governments, if continued, were to be continued subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress.

What is the power of removal? "2. The commander of any district named in said act shall have power, subject to the disapproval of the general of the army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district, under any power, election, appointment or authority derived from, or granted by, or claimed under, any so-called

	Art.	sec.	cl.	pp
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Parent's Worksheet for Child's Birth Certificate

FOR HOSPITAL USE ONLY:

MOTHER MR# _____ NEWBORN MR# _____
MEDICAID # _____ DELIVERING DR _____ RM # _____

The information you provide on this worksheet is used to create your child's birth certificate. The birth certificate is a legal document used to prove your child's age, citizenship and parentage. Your child will use the birth certificate throughout his/her life. The State of Texas safeguards against the unauthorized release of identifying information from birth certificates to protect the confidentiality of parents and their child.

Please **PRINT** your responses carefully and accurately as errors are difficult and expensive to correct.

CHILD'S PLACE OF BIRTH

Name of Hospital or Location	Address	State
County	City	Zip Code

CHILD'S INFORMATION

Time of Birth	Date of Birth	Plurality (please circle one)
Am / Pm		Single / Twin / Triplets / Quadruplets / Quintuplets
Birth Order (please circle one)	Number of Infants Born Alive at this Birth? (please circle one)	
First / Second / Third / Fourth / Fifth	One / Two / Three / Four / Five	

PARENT 1 - CURRENT LEGAL NAME

☐ Mother ☐ Father ☐ Parent

First Name	Middle Name	Last Name	Suffix

CHILD'S LEGAL NAME

First Name	Middle Name	Last Name	Suffix

APPELLATION USED TO CREATE A CLASS OF PERSON REGISTERED AS DOING BUSINESS WITH THE FEDERALLY CREATED LEGAL STATE, NON SOVEREIGN, ETC.

PARENT 1 - RESIDENCE ADDRESS

Residence Address	Apartment Number	State/Foreign Country	County
City/Town/Location	Zip Code / Extension	Inside City Limits?	
		☐ Yes ☐ No	

TO GEORGE WASHINGTON FROM THE UNITED STATES HOUSE OF REPRESENTATIVES, 7 DECEMBER 1793

From the United States House of Representatives

Sir,

[7 December 1793]

The Representatives of the people of the United States, in meeting you for the first time since you have been again called by an unanimous suffrage to your present station, find an occasion which they embrace, with no less sincerity than promptitude, for expressing to you their congratulations on so distinguished a testimony of public approbation; and their entire confidence in the purity & patriotism of the motives which have produced this obedience to the voice of your country. It is to virtues which have commanded long and universal reverence, and services from which have flowed great and lasting benefits, that the tribute of praise may be paid, without the reproach of flattery; and it is from the same sources, that the fairest anticipations may be derived in favor of the public happiness.

The United States having taken no part in the War which had embraced in Europe the powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witness with approbation and pleasure the vigilance with which you have guarded against an interruption of that blessing, by your proclamation admonishing our Citizens of the consequences of illicit or hostile acts towards the belligerent parties, and promoting by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation.¹

The connexion of the United States with Europe has evidently become extremely interesting. The communications which remain to be exhibited to us, will, no doubt, assist in giving us a fuller view of the subject, and in guiding our deliberations to such results as may comport with the rights and true interests of our Country.

“Where the United States own land situated within the limits of particular States, and over which they have no cession of jurisdiction, for objects either special or general, little doubt exists that the rights and remedies in relation to it are usually the same as apply to other landholders within the States.”—*United States vs. 1 Woodbury and Minot*, p. 76.

INVENTORY REPORT
ON
JURISDICTIONAL STATUS
OF FEDERAL AREAS WITHIN
THE STATES

As of June 30, 1962



Compiled by
GENERAL SERVICES ADMINISTRATION

FOR OFFICIAL USE ONLY

INVENTORY REPORT ON JURISDICTIONAL
STATUS OF FEDERAL AREAS WITHIN THE
STATES

1. Authority

This "Inventory Report on Jurisdictional Status of Federal areas within the States," as of June 30, 1962, is the second comprehensive inventory of its nature ever undertaken. It has been prepared and issued by General Services Administration pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, as amended.

2. Background

The compilation of the original inventory as of June 30, 1957, constituted a step toward fulfilling the hope expressed by the President in a letter dated April 27, 1956, to the Attorney General, that General Services Administration establish a central source of information concerning the legislative jurisdictional status of Federal properties.

An Inter-agency Committee consisting of representatives of Department of Justice, Bureau of the Budget, and General Services Administration was formed to maintain a continuing and concerted interest in the progress made by Federal agencies in adjusting the status of their properties. This Committee requested the Administrator of General Services to compile a second inventory on the jurisdictional status of Federal areas within the States, as of June 30, 1962. The Committee deemed the new inventory necessary in order to refine legal determinations in the original inventory, as of June 30, 1957, and, further to include data on Federal holdings in the new States of Alaska and Hawaii as well as new acquisitions in the other States.

Article I, section 8, clause 17, of the Constitution provides that the Congress shall have power—

To exercise exclusive Legislation in all Cases Whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; (Emphasis added.)

LEGISLATIVE JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES

CODES USED IN TYPE OF JURISDICTION AND CITATION TO LEGISLATIVE AUTHORITY COLUMNS

PUBLIC LAWS - AFFECT
THE PUBLIC
GENERALLY, (PUBLIC
SERVANTS ARE THE PUBLIC)
OR INDIVIDUALS
AS A CLASS.

SESSION LAWS:
CHRONOLOGICAL
COMPILATIONS OF LAWS
PASSED, BY PART,
LEG. WITHIN EACH
SESS.

CODE	TYPE OF LEGISLATIVE JURISDICTION	CITATION TO LEGISLATIVE AUTHORITY
1	Exclusive Legislative Jurisdiction. This term is applied when the Federal Government possesses, by whichever method acquired, all of the authority of the State, and in which the State concerned has not reserved to itself the right to exercise any of the authority concurrently with the United States except the right to serve civil or criminal process in the area for activities which occurred outside the area.	For land areas reported under "Exclusive," "Concurrent," or "Partial" legislative jurisdiction, a general or specific State statute or Federal law (Statutes-at-Law) is cited. State Statute. ← Citations to State laws are in terms of session statutes regardless of whether or not they have been codified. Each citation shows: (1) the year of enactment of the cited statute; (2) the page number of the volume of State laws; and (3) the chapter (or equivalent) number of the State law. Federal Law (Statutes-At-Large) ← Citations to Federal laws are shown in cases where legislative jurisdiction was obtained by a reservation in the enabling act authorizing Statehood. These citations show volumes and page numbers of the Statutes at Large. Acceptance or Recordation Date. This date represents the month, day, and year on which the Federal Government accepted legislative jurisdiction. This date is called for in the case of any acquisition after January 31, 1940, (Section 355, Revised Statutes U.S.) as well as acquisitions prior thereto where recordation or other affirmative act was required by the applicable State Statute.
2	Concurrent Legislative Jurisdiction. This term is applied in those instances wherein in granting to the United States authority which would otherwise amount to exclusive legislative jurisdiction over an area, the State concerned has reserved to itself the right to exercise, concurrently with the United States, all of the same authority.	
3	Partial Legislative Jurisdiction. This term is applied in those instances wherein the Federal Government has been granted for exercise by it over an area in a State certain of the State's authority, but where the State concerned has reserved to itself the right to exercise, by itself or concurrently with the United States, other authority constituting more than merely the right to serve civil or criminal process in the area (e.g., the right to tax private property).	
4	Proprietorial Interest Only. This term is applied to those instances wherein the Federal Government has acquired some right or title to an area in a State, but has not obtained any measure of the State's authority over the area. In applying this definition, recognition should be given to the fact that the United States, by virtue of its functions and authority under various provisions of the Constitution, has many powers and immunities not possessed by ordinary landholders with respect to areas in which it acquires an interest, and of the further fact that all its properties and functions are held or performed in a governmental rather than a proprietary capacity.	
5	Unknown. Land will be reported under this category when there is no data or record to guide the reporting holding agency. EXPLANATION: The number (1 through 5) appearing in the Jurisdictional Code column indicates the legislative jurisdiction of the acreage listed on the same line in the Land columns. For example, a number 1 indicates exclusive jurisdiction by the Federal Government over the area shown in the Land columns on the same line.	ADDITIONAL INFORMATION FOUND IN THE DETAILED LISTING N (negligible) An "N" shown in the Land Area columns indicates less than one tenth (0.1) of an acre. R (reference) An "R" shown in the State Statute columns indicates that additional unpublished data is on file in the Central Office of CSA. X An "X" shown in the Jurisdictional Code columns and/or the Federal Law columns indicates that the propriety of the code and/or the law cited is considered doubtful by the reporting agency. These listings have been carefully prepared and checked, but perfection cannot be assured. Users are asked to call to the attention of the Office of Finance and Administration, General Services Administration, Washington 25, D.C., necessary corrections as well as suggestions for alteration in the content or format of the list.

GENERAL SERVICES ADMINISTRATION REPORT OF LEGISLATIVE JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES <i>(For Instructions see GSA Circular No. 275)</i>				FORM APPROVED BUDGET BUREAU NO. 29-6202 APPROVAL EXPIRES DEC. 31, 1963		1. REPORT AS OF June 30, 1962		
4. NAME OF INSTALLATION (Abbreviate when necessary so as not to exceed 23 type spaces)				2. AGENCY CONTROL NO.		3. GSA CONTROL NO.		
5. REPORTING AGENCY				6. BUREAU OR OTHER MAJOR ORGANIZATION				
LOCATION								
7. STATE				8. CITY OR TOWN				
9. COUNTY				10. STREET ADDRESS, RFD NO. OR OTHER LOCAL DESIGNATION (Abbreviate when necessary so as not to exceed 23 type spaces)				
GEOGRAPHICAL CODE	STATE	CITY	COUNTY					
LAND AREAS								
11. TYPE OF LEGISLATIVE JURISDICTION						DATE(S) OF LAND ACQUISITION (Year/s only)		AREA (Acres to nearest tenth)
CODE (A)	DESCRIPTION (B)					12	13	
1	EXCLUSIVE							
2	CONCURRENT							
3	PARTIAL							
	PROPRIETORIAL INTEREST ONLY							
5	UNKNOWN							
TOTAL LAND AREA *								
* Must agree with land area for this installation shown in the June 30, 1962 Inventory of Real Property Owned by the United States.								
14. STATE OR FEDERAL STATUTE (For each type of legislative jurisdiction reported in block 11, above, cite the specific State and/or Federal statute under which the legislative jurisdiction over the land was received.)						15. DATE(S) OF LETTER(S) OF ACCEPTANCE OR OTHER ACTIONS TRANSFERRING LEGISLATIVE JURISDICTION TO THE FEDERAL GOVERNMENT		
CODE	STATE STATUTE			FEDERAL LAW (Statutes-at-Large)		MONTH	DAY	YEAR
	YEAR OF ENACTMENT	PAGE NO.	CHAPTER NO.	VOLUME NO.	PAGE NO.			
16. REMARKS (Use reverse if more space is required)								
17. PREPARED BY (Typed name and title)						18. SIGNATURE		19. DATE

Black's Law Dictionary*

Ninth Edition

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Editor in Chief

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[Cases: Criminal Law ⇨394.1(3).]

independent state. See SOVEREIGN STATE.

independent union. See UNION.

indestructible trust. See TRUST.

indeterminate, adj. (14c) Not definite; not distinct precise.

indeterminate bond. See BOND (3).

induced revocation; ineffective revocation; doctrine of ineffective revocation. [Cases: Wills ⇨167-195.]

dependent state. See nonsovereign state under STATE.

de perambulatione facienda (dee pə-ram-byə-lay-shee-oh-nee fay-shee-en-də), *n.* [Law Latin "for making perambulation"] *Hist.* A writ ordering the sheriff to go with 12 knights of the county to settle a boundary dispute by walking about to determine the proper boundary

citizen, n. (14c) 1. A person who, by either birth or naturalization, is a member of a political community, owing allegiance to the community and being entitled to enjoy all its civil rights and protections; a member of the civil state, entitled to all its privileges. Cf. **RESIDENT; DOMICILIARY.** [Cases: Aliens, Immigration, and Citizenship ⇨652.]

citizen by naturalization. See naturalized citizen.

federal citizen. A citizen of the United States.

natural-born citizen. A person born within the jurisdiction of a national government. [Cases: Aliens, Immigration, and Citizenship ⇨689-728.]

naturalized citizen. A foreign-born person who attains citizenship by law. — Also termed *citizen by naturalization.* [Cases: Aliens ⇨60-70.]

2. For diversity-jurisdiction purposes, a corporation that was incorporated within a state or has its principal place of business there. 28 USCA § 1332(c)(1). [Cases: Federal Courts ⇨297, 300.]

citizen-informant. See INFORMANT.

citizen's arrest. See ARREST.

citizenship, n. 1. The status of being a citizen. 2. The quality of a person's conduct as a member of a community.

corporate citizenship. See CORPORATE CITIZENSHIP.

dual citizenship. See DUAL CITIZENSHIP.

group of constituent states.

dependent state. See nonsovereign state.

federal state. A composite state in which the sovereignty of the entire state is divided between the central or federal government and the local governments of the several constituent states; a union of states in which the control of the external relations of all the member states has been surrendered to a central government so that the only state that exists for international purposes is the one formed by the union. Cf. *confederation of states* under CONFEDERATION.

imperial state. Archaic. A composite state in which a common or central government possesses in itself the entire sovereignty, so that the constituent states possess no portion of this sovereignty.

nonsovereign state. A state that is a constituent part of a greater state that includes both it and one or more others, and to whose government it is subject; a state that is not complete and self-existent. • Among other things, a nonsovereign state has no power to engage in foreign relations. — Also termed **dependent state.** Cf. SOVEREIGN STATE.

part-sovereign state. See SOVEREIGN STATE.

police state. A state in which the political, economic, and social life of its citizens is subject to repressive

ARTICLES OF CONFEDERATION—1777¹

To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting

Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventyseven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire, Massachusetts-bay, Rhodeisland and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia in the Words following, viz.

“Articles of Confederation and perpetual Union between the States of Newhampshire, Massachusettsbay, Rhodeisland and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia.

ARTICLE I. The stile of this confederacy shall be “The United States of America.”

ARTICLE II. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of

Browse the United States Code [Current [change...](#)]

- + Front Matter
- + *Title 1—General Provisions
- + Title 2—The Congress
- + *Title 3—The President
- + *Title 4—Flag And Seal, Seat Of Government, And The States
- + *Title 5—Government Organization And Employees; and [Appendix](#)
- + Title 6—Domestic Security
- + Title 7—Agriculture
- + Title 8—Aliens And Nationality
- + *Title 9—Arbitration
- + *Title 10—Armed Forces
- + *Title 11—Bankruptcy; and [Appendix](#)
- + Title 12—Banks And Banking
- + *Title 13—Census
- + *Title 14—Coast Guard
- + Title 15—Commerce And Trade
- + Title 16—Conservation
- + *Title 17—Copyrights
- + *Title 18—Crimes And Criminal Procedure; and [Appendix](#)
- + Title 19—Customs Duties
- + Title 20—Education
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- + *Title 23—Highways
- + Title 24—Hospitals And Asylums
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- + *Title 35—Patents
- + *Title 36—Patriotic And National Observances, Ceremonies, And Organizations
- + *Title 37—Pay And Allowances Of The Uniformed Services
- + *Title 38—Veterans' Benefits
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- + *Title 40—Public Buildings, Property, And Works
- + *Title 41—Public Contracts
- + Title 42—The Public Health And Welfare
- + Title 43—Public Lands
- + *Title 44—Public Printing And Documents
- + Title 45—Railroads
- + *Title 46—Shipping
- + Title 47—Telecommunications
- + Title 48—Territories And Insular Possessions
- + *Title 49—Transportation
- + Title 50—War And National Defense; and [Appendix](#)
- + *Title 51—National And Commercial Space Programs
- + Title 52—Voting And Elections
- + Title 53—[Reserved]
- + *Title 54—National Park Service And Related Programs
- + Popular Names and Tables

* This title has been enacted as positive law. However, any Appendix to this title has not been enacted as part of the title.

Code Description.

1. Exclusive Legislative Jurisdiction. This term is applied when the Federal Government possesses, by whichever method acquired, all of the authority of the State, and in which the State concerned has not reserved to itself the right to exercise any of the authority concurrently with the United States except the right to serve civil or criminal process in the area for activities which occurred outside the area.
2. Concurrent Legislative Jurisdiction. This term is applied in those instances wherein in granting to the United States authority which would otherwise amount to exclusive legislative jurisdiction over an area, the State concerned has reserved to itself the right to exercise, concurrently with the United States, all of the same authority.
3. Partial Legislative Jurisdiction. This term is applied in those instances wherein the Federal Government has been granted for exercise by it over an area in a State certain of the State's authority, but where the State concerned has reserved to itself the right to exercise, by itself or concurrently with the United States, other authority constituting more than merely the right to serve civil or criminal process in the area (e.g., the right to tax private property).
4. Proprietorial Interest Only. This term is applied to those instances wherein the Federal Government has acquired some right of title to an area in a State but has not obtained any measure of the State's authority over the area. In applying this definition, recognition should be given to the fact that the United States, by virtue of its functions and authority under various provisions of the Constitution, has many powers and immunities not possessed by ordinary landholders with respect to areas in which it acquires an interest, and of the further fact that all its properties and functions are held or performed in a governmental rather than a proprietary capacity.
5. Unknown. Land will be reported under this category when there is no data or record to guide the reporting agency.

Attachment 2
GSA Circular No. 275

GENERAL SERVICES ADMINISTRATION SUMMARY REPORT LEGISLATIVE JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES <i>(For Instructions see GSA Circular No. 275)</i>		FORM APPROVED BUDGET BUREAU NO. 29-6203 APPROVAL EXPIRES DEC. 31, 1963 2. REPORTING AGENCY 3. BUREAU OR OTHER MAJOR ORGANIZATION	1. SUMMARY REPORT AS OF June 30, 1962
4. TOTAL NUMBER OF REPORTS SUMMARIZED (Enter total number of individual installation reports (GSA Form 1166B) for federally-owned properties submitted by the reporting bureau)			
SUMMARY OF LAND AREAS			
5. TYPE OF LEGISLATIVE JURISDICTION			6. AREA (Acres to nearest tenth)
CODE (A)	DESCRIPTION (B)		
1	EXCLUSIVE		
2	CONCURRENT		
3	PARTIAL		
4	PROPRIETORIAL INTEREST ONLY		
5	UNKNOWN		
TOTAL LAND AREA*			
* On 6, above, must be the sum of column 13 for the reports (GSA Form 1166B) summarized. LEGISLATIVE JURISDICTION OVER NONFEDERALLY-OWNED LAND AREAS (Indicate the nature and number of nonfederally-owned lands controlled by reporting bureau over which the Federal Government has exclusive, concurrent or partial legislative jurisdiction. Nonfederally-owned lands in which the Federal Government has only a proprietorial interest shall not be reported.)			
8. CHANGES IN LEGISLATIVE JURISDICTION SINCE JUNE 30, 1957			
9. PREPARED BY (Typed name and title)		10. SIGNATURE	11. DATE

JURISDICTIONAL STATUS OF FEDERAL LAND AREAS

BEO EMITTED NO.		LOCATION			DESCRIPTION	ACRES ACQUIRED	DATES RECEIVED		LAND AREA	CITATION TO LEGISLATIVE AUTHORITY									
FEDERAL BUREAU	LOCAL LOCATION	STATE	COUNTY	SECTION			FROM	TO		ACRES - TO NEAREST TENTH	STATE STATUTE			FEDERAL LAND MANAGEMENT SYSTEM		ACQUISITION BY EXECUTIVE ACT			
											YEAR OF ENACTMENT	PUBLIC LAW NO.	SECTION NO.	PLURAL NO.	PAGE NO.	NO.	DATE	YEAR	
MONTANA																			
					BEAVERHEAD														
					AGRICULTURE														
					AGR RESEARCH SERVICE														
1205	07324	25	9999	001	W SHEEP BREEDING LAB	4	1922		16,450.0										
					INTERIOR														
					BUR OF LAND MANAGEMENT														
1411	11800	25	0340	001	DILLON ADMIN SITE	4	1803	1957	.9										
					NATIONAL PARK SERVICE														
1417	07066	25	1295	001	BIG HOLE BATTLE NAT MON	1	1910	1919	200.0	1891	0262								
					FISH & WILDLIFE SERVICE														
1435	09281	25	9999	001	RED ROCK LAKES REFUGE	4	1935	1957	31,515.1										
					POST OFFICE														
					BUREAU OF FACILITIES														
1800	02905	25	0340	001	POST OFFICE IDAHO & SEBREE STS	1	1934		.3	1921	CODE	0024					08	15	1935
					FEDERAL AVIATION AGENCY														
6900	06215	25	9999	001	CANYON RESORT BGN	4	1946		10.0										
	6					8			48,376.3*										
					BIG HORN														
					INTERIOR														
					NATIONAL PARK SERVICE														
1417	07069	25	0285	003	CUSTER BTFLD NAT MON	1	1886	1930	757.8	1891	0262								
1417	07069	25	0285	003		4	1946		7.5										
	1					3			765.3*										
					BLAINE														
					INTERIOR														
					FISH & WILDLIFE SERVICE														
1435	09346	25	9999	005	BLACK COULEE NAT REF	4	1938		640.0										
					GENERAL SERVICES ADMIN														
					REGION #10 - SEATTLE														
4710	02802	25	1175	005	BORDER STATION SITE	3	1940		7.5	1939	0374	0155					10	26	1940
	2					3			1647.5*										
					CARBON														
					INTERIOR														
					BUR OF LAND MANAGEMENT														
1411	13082	25	0140	009	BRIDGER ADMIN SITE	4	1958		.6										
	1					1			.6*										
					CASCADE														
					GENERAL SERVICES ADMIN														
					REGION #10 - SEATTLE														
4710	02908	25	0530	013	P O & COURTHOUSE	1	1908		1.2								08	22	1908
4710	02908	25	0530	013	FIRST AVE WD & 30 ST	4	1962		.8										
					DEFENSE														

JURISDICTIONAL STATUS OF FEDERAL LAND AREAS

FED. CONTROL NO.		LOCATION			DESCRIPTION	ACQ. DATE	ACQUISITION		LAND AREA	CITATION TO LEGISLATIVE AUTHORITY								
FED. CONTROL NO.	STATE	COUNTY	TOWNSHIP	FROM			TO	STATE STATUTE			FEDERAL LAW		ACQUISITION DATE					
								YEAR OF ACQUISITION		STATUTE NO.	SECTION NO.	PLAT NO.	PAGE NO.	MO.	DAY	YEAR		
AIR FORCE																		
5700	24556	25	0530	013	MALMSTROM	AFB	3	1942	1945	2,644.0	1939	0374	0155			08	31	1945
5700	24556	25	0530	013			4	1945		446.0								
5700	24873	25	0530	013	MALMSTROM	DM	4	1952		1.0								
5700	25247	25	0530	013	MALMSTROM	CST	4	1956		22.0								
5700	25248	25	0530	013	MALMSTROM	MM	4	1952		1.0								
5700	25858	25	9999	013	MALMSTROM	SM A3 MSL	4	1961		2.0								
5700	25865	25	9999	013	MALMSTROM	SM 110 MSL	4	1960		2.0								
5700	25988	25	9999	013	MALMSTROM	SM A6 MSL	4	1961		3.0								
5700	25989	25	9999	013	MALMSTROM	SM A9 MSL	4	1961		2.0								
5700	25990	25	9999	013	MALMSTROM	SM A8 MSL	4	1961		2.0								
5700	25991	25	9999	013	MALMSTROM	SM A10 MSL	4	1961		2.0								
5700	26035	25	9999	013	MALMSTROM	SM H7 MSL	4	1961		2.0								
5700	26062	25	9999	013	MALMSTROM	SM 11 MSL	4	1961		2.0								
5700	26068	25	9999	013	MALMSTROM	SM A2 MSL	4	1961		2.0								
5700	26071	25	9999	013	MALMSTROM	SM G2 MSL	4	1961		2.0								
5700	26085	25	9999	013	MALMSTROM	SM A7 MSL	4	1961		2.0								
5700	26093	25	0190	013	MALMSTROM	SM G4 MSL	4	1961		2.0								
5700	26096	25	9999	013	MALMSTROM	SM 12 MSL	4	1961		2.0								
5700	26097	25	0190	013	MALMSTROM	SM 14 MSL	4	1961		2.0								
5700	26098	25	9999	013	MALMSTROM	SM 17 MSL	4	1961		1.0								
5700	26099	25	9999	013	MALMSTROM	SM 19 MSL	4	1961		2.0								
5700	26146	25	9999	013	MALMSTROM	SM A1 MSL	4	1961		3.0								
5700	26152	25	9999	013	MALMSTROM	SM J9 MSL	4	1961		2.0								
5700	26174	25	9999	013	MALMSTROM	SM 18 MSL	4	1961		2.0								
5700	26179	25	9999	013	MALMSTROM	SM 13 MSL	4	1961		2.0								
5700	26184	25	0070	013	MALMSTROM	SM A11 MSL	4	1961		2.0								
5700	26186	25	9999	013	MALMSTROM	SM H6 MSL	4	1961		2.0								
5700	26192	25	0190	013	MALMSTROM	SM 15 MSL	4	1961		2.0								
5700	26223	25	9999	013	MALMSTROM	SM J8 MSL	4	1961		2.0								
5700	26257	25	0190	013	MALMSTROM	SM G5 MSL	4	1961		3.0								
30					34				3,168.0+									
CHUTEAU DEFENSE AIR FORCE																		
5700	25866	25	9999	015	MALMSTROM	SM J5 MSL	4	1961		2.0								
5700	26031	25	9999	015	MALMSTROM	SM J7 MSL	4	1961		3.0								
5700	26100	25	9999	015	MALMSTROM	SM J6 MSL	4	1961		2.0								

Naturally the active agents are also personally liable to fine or imprisonment, and they may be indicted jointly with the corporation.¹⁸

CONSENT AS THE BASIS OF PERSONAL JURISDICTION. — No recovery is allowed on a foreign judgment rendered by a court having no jurisdiction.¹ Usually it is enough for the defendant to prove affirmatively that in the former action there was no personal, intra-territorial service upon him,² though this plea may be overthrown by showing that he appeared in the former action as plaintiff,³ or voluntarily and without protest as defendant.⁴ If the parties submit to the jurisdiction of the court they are normally concluded by its judgment.

Jurisdiction may also be conferred on the court by agreement between the parties. Thus an express contract so to do is sufficient.⁵ A power to confess judgment upon a note, conferred by the note itself, is valid,⁶ though it must be strictly pursued.⁷ An agreement to confer jurisdiction may also be implied. Thus where one bought stock in a French corporation, and in compliance with French law designated an agent to receive service, it is easy to find conscious assent that such service should be sufficient.⁸ The decisions go further, however, and hold valid as against a non-resident stockholder in a joint-stock company a judgment recovered against the chairman of the company by virtue of a statute which designated such chairman as the proper person to sue and be sued as the representative of the stockholders, though the stockholder had no actual notice, either of the action or of the statute.⁹ Similarly, where a statute provides that if a foreign corporation does business within the state through agents, service upon such agents is sufficient service upon the corporation, the doing of business in the state is an assent to the conditions of the statute, even though the corporation had no actual notice thereof.¹⁰ Yet in both cases there is a genuine contract flowing from consent, and not an obligation in law imposed irrespective of consent. If the defendant had had actual notice of these conditions, and had then acted as he did, this would either amount to conscious assent thereto, or estop him to deny such assent. Instead of actual, he had constructive notice, and since the law deems these equivalent, his actions give rise to a genuine contract, precisely as if there had been conscious assent. If, therefore, an agreement is relied on to give jurisdiction, the elements of a genuine contract must be found either actually or constructively.

¹⁸ *People v. Clark*, 8 N. Y. Crim. Rep. 179.

¹ *Sirdar Gurdyal Singh v. Rajah of Faridkote*, [1894] A. C. 670; *Bischoff v. Wethered*, 9 Wall. (U. S.) 812.

² *Sirdar Gurdyal Singh v. Rajah of Faridkote*, *supra*; *Pennoyer v. Neff*, 95 U. S. 714.

³ *Ricardo v. Garcias*, 12 Cl. & F. 367. See *Fitzsimmons v. Johnson*, 90 Tenn. 416.

⁴ *Voinet v. Barrett*, 55 L. J. Q. B. 39; *Hilton v. Guyot*, 159 U. S. 113.

⁵ *Feyericks v. Hubbard*, 18 T. L. R. 381. See, also, *Dicey, Conf. of Laws*, 369.

⁶ *Teel v. Yost*, 128 N. Y. 387; *Snyder v. Critchfield*, 44 Neb. 66.

⁷ *Grover, etc., Machine Co. v. Radcliffe*, 137 U. S. 287.

⁸ *Vallée v. Dumergue*, 4 Exch. 290.

⁹ *Bank of Australasia v. Nias*, 16 Q. B. 717; *Kersall v. Marshall*, 1 C. B. (N. S.) 240; *Bank of Australasia v. Harding*, 9 C. B. 661. See *Copin v. Adamson*, L. R. 9 Exch. 345.

¹⁰ *St. Clair v. Cox*, 106 U. S. 350.

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CITIZENSHIP AS A GROUND FOR PERSONAL JURISDICTION. — The New York Court of Appeals has recently refused to recognize a judgment of a foreign court whose jurisdiction was based solely upon citizenship. *Grubel v. Nassauer*, 210 N. Y. 149. The defendant was a Bavarian subject domiciled in New York. He had filed notice of his intention of becoming a United States citizen, but before naturalization the judgment was secured against him on valid service by publication in Bavaria. Admitting the defendant's allegiance continued Bavarian, the court disregards that fact without giving a reason for doing so, and bases its decision on a case involving no question of citizenship or allegiance.¹ The precise point has apparently been presented only once for decision, but in denying allegiance as a ground for jurisdiction *in personam* the court departs from the reasoned opinions of eminent judges and text-writers.²

¹ *Pennoyer v. Neff*, 95 U. S. 714 (1877). The court quotes a passage from this case (p. 727) to the effect that the process of one state has no force beyond its own boundaries, and then says, "It seems to us unreasonable that we should give greater respect to the judgments recovered in a foreign country than to a judgment recovered in one of our sister states." This reasoning involves an obvious *non sequitur*, since in the case quoted from the attempt was to get jurisdiction over a defendant who had no residence or domicile in the state and owed no allegiance thereto.

The court also cites a case in which a Canadian judgment against a Canadian residing in Wisconsin was refused recognition by a Wisconsin court. *Smith v. Grady*, 68 Wis. 215, 31 N. W. 477 (1887). The case is directly in point, but the Wisconsin court disregarded the question of allegiance altogether, relying on a previous Wisconsin case where no question of allegiance was involved.

² See *Douglas v. Forrest* (1828), 4 Bing. 686; *Cowan v. Braidwood*, 9 Dow. P. C.

